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Massachusetts Annual Victim Rights Conference

April 28, 1999
8:00 AM - 4:00 PM
State House, Boston

GOVERNMENT DOCUMENTS COLLECTION

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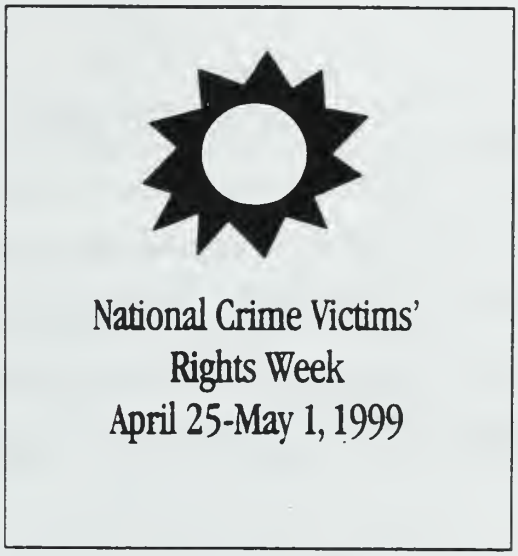
National Crime Victims' Rights Week
April 25-May 1, 1999

SPONSORS:
Massachusetts Victim and Witness Assistance Board
Massachusetts Office for Victim Assistance
Attorney General Tom Reilly

MOVA/VWAB
1 Ashburton Place, Room 1101
Boston, Massachusetts 02108
Phone (617) 727-5200
Fax (617) 727-6552
E-Mail: MOVA@state.ma.us

Massachusetts Annual Victim Rights Conference 1999



Massachusetts Victim and Witness Assistance Board
Attorney General Tom Reilly, Chairman
Gerard Downing, District Attorney for Berkshire County
Mary Ellen Doyle, Victim/Public Member
Elizabeth Scheibel, District Attorney for Northwestern District
Vacany, Victim/Public Member

Massachusetts Office for Victim Assistance
Shelagh Lafferty, Executive Director
Paula Almeida, Office Manager
Maureen Finaldi, Victim Advocate/Training Specialist
Robert Fleck, VOCA Grant Administrator
Deborah Fogarty, Family Violence Project Manager
Nicole Gill, VOCA Grant Specialist
Alyssa Kazin, Victim Services Program Specialist
Michael Lartigue, Family Violence Project Training and Contract Administrator
Barbara Pryor, Community Education Coordinator
Mark Spezzafero, Director of Finance and Administration
Tracy Wadsworth, Policy Analyst

Massachusetts Annual Victim Rights Conference 1999

SPONSORS

Office of Governor Paul Cellucci
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Massachusetts District Attorney's Association
Massachusetts Department of Corrections
Massachusetts Parole Board
Massachusetts Sheriff's Association
Mothers Against Drunk Drivers
Norfolk County Sheriff's Office
Parents of Murdered Children
Post-Homicide Family Support Program
Respond, Inc.
The R.O.S.E. Fund
The Trauma Center-Arbour Health System Foundation
Victim/Witness Program Directors

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Massachusetts Annual
Victim Rights Conference

State House, Boston
Wednesday, April 28, 1999

Conference Program

7:30-8:45 **Registration, Exhibits, and Breakfast:** Nurses Hall, 2nd Floor.

9:00-11:00 **Plenary Session:** Gardner Auditorium, State House

Opening: Sergeant Daniel M. Clark, Vocalist
Raymond Cavicchio, Accompanist

Welcome: Shelagh Lafferty, Executive Director
Massachusetts Office for Victim Assistance

Address: Attorney General Tom Reilly, Chairman
Victim and Witness Assistance Board

Remarks: Governor A. Paul Cellucci
Donald K. Stern, United States Attorney

Awards Presentation:

1. *Innovations*: Victim Compensation Division
2. *Legislator:* Rep. Paul Casey
3. *Media:* Eileen McNamara
4. *Victim Witness Advocate*: Susan Zoia
5. *Special Recognition:* Yoko Kato

Keynote Address: Christopher Darden

11:15-1:00 **Concurrent Workshops:** Various Locations

1. **Exploring Forgiveness: Is it Necessary for Healing?**

   Panelists: Kathleen Alexander, Director of Community Education and Training, Northwestern District Attorney's Office
   Virginia and George Lester, surviving parents of Albert Lester

   Location: Gardner Auditorium, State House

2. **Victim Activism: Transforming Ideas into Reality**

   Panelists: Clementina M. Chery, Homicide Survivor, Founder Louis D. Brown Social Development Corporation
   Senator Brian P. Lees (R – 1st' Hampden and Hampshire), Senate Minority Leader
   Representative John Rogers (D – 12th Norfolk), Chair, Committee on Taxation
   Marianne Winters, Interim Executive Director, Jane Doe, Inc.
   Janet Yassen, Crisis Services Coordinator, Cambridge Hospital

   Location: Walsh Theater, Suffolk University, 55 Temple Street

3. **Enhancing Prosecution with New DNA Technologies**

   Panelists: Barry Brown, Ph.D, Forensic Science Systems Unit, FBI
   David Capeless, First Assistant District Attorney, Berkshire County
   Rosemary Gale, Assistant Attorney General, Attorney General's Office
   Donald Hayes Jr., Director, Boston Police Crime Laboratory
   Sgt. Richard Nagle, Massachusetts State Police, Cold Case Unit

   Location: 1 Ashburton Place, (McCormack Building) 21st Floor

4. **Truth in Sentencing: Where Does It Stand**

   Panelists: Chief Justice Mulligan, Chair, Massachusetts Sentencing Commission
   Sheila Hubbard, Chair, Massachusetts Parole Board
   Nancy Larson, President, Daniel A. Larson Foundation
   David Slade, Esq., Massachusetts Department of Correction
   Representative Stephen Tobin (D – 2nd Norfolk), Chair, Committee on Criminal Justice

   Location: Park Street Church, 1 Park Street

5. **Crime Victims and the Guardian ad Litem System**

Panelists: Christine Butler, Esq., Butler & Monks, The Women's Law Collective
Betsy Clague, Esq., Tufankjian & McDonald
Susan Clare, Survivor
Honorable Christina Harms, Norfolk Probate and Family Court
Robin L. Stolk, Esq., Children & Family Law Program, Committee For Public Counsel Services
Patricia Tellis-Warren, Esq., Cambridge & Somerville Legal Services

Location: Church of the New Jerusalem, 140 Bowdoin Street

6. **Substance Abuse Among Victims: Before and After the Crime**

Panelists: Diane St. George, State Victim Services Coordinator, Mothers Against Drunk Driving
Mary Kowalczuk, MSW, Boston Consortium for Families in Recovery
Tommie Ann Bower, M.. Emerson House/Gosnold
Marci Diamond, Massachusetts Department of Public Health
Marcia Gordon, Elizabeth Stone House

Location: Paulist Center, 5 Park Street

1:00-2:30 **Lunch** (on your own)

2:30-4:00 **Afternoon Session**: Gardner Auditorium, State House

1. **The "State of the State" of Crime Victims in Massachusetts**

Panelists: Gerard Downing, District Attorney for Berkshire County
Mary Ellen Doyle, Victim/Public Member
Elizabeth Scheibel, District Attorney for Northwestern District
Shelagh Lafferty, Executive Director, Massachusetts Office for Victim Assistance

Location: Gardner Auditorium, State House

Victim Rights Conference 1999

Workshop Descriptions

Morning Workshops:

Exploring Forgiveness: Is It Necessary for Healing?

The question of forgiveness in the wake of victimization is a deeply personal, highly complex matter that many crime victims wrestle with during their recovery process. What does forgiveness mean in the context of victimization? Is it necessary for healing, or are some crimes too horrendous to forgive? Is the idea of forgiveness too closely linked to forgetting? For forgiveness to happen, must the offender be remorseful or is it something victims choose for themselves? Bringing together crime victims and victim service professionals, this workshop will explore these and other difficult questions about the meaning of forgiveness in victims' lives.

Victim Activism: Transforming Ideas into Reality

In the aftermath of crime, many victims seek to channel the pain of their personal experience into positive social action by pushing for new laws to improve the criminal justice system, organizing violence prevention efforts, or promoting a greater awareness about the emotional toll crime often imposes. How does one become involved in the victim rights movement? What does it take to transform ideas for change into reality? How does one build support for those ideas in the political process? What are some things to watch out for in becoming a victim activist? This workshop will feature victim activists and state legislators to explore these and other questions about developing effective ways to accomplish change for victims.

Truth in Sentencing: Where Do We Stand?

When the legislature enacted the Truth in Sentencing Law in 1994, it was seen as a victory for crime victims. Five years later, as the legislature begins reviewing the Sentencing Commission's proposed sentencing guidelines, another opportunity exists to address crime victims' concerns about sentencing. What did the Truth in Sentencing law change, and what remained the same? How effective has the law been in ensuring that convicted offenders serve their full sentence? Is victim input being reflected in the sentencing outcomes? How are "good time" credits awarded and release dates calculated for offenders? Are victims' concerns about the length of time offenders serve being effectively addressed by the criminal justice system? In this workshop, a panel of criminal justice and victim policymakers will discuss these important questions and review the proposed Sentencing Guidelines.

Enhancing Prosecution with New DNA Technologies

Increasingly, the outcomes of criminal cases are being determined by the use of new DNA technologies. With the advent of these new forensic techniques, perpetrators of sexual assault, homicide and other crimes can be identified with much greater precision and certainty. For crime victims and law enforcement officials, the benefits of using DNA testing are clear, but is there a downside? Is DNA testing foolproof? What is the legal status of DNA testing in Massachusetts? This workshop features a panel of criminal justice and forensic experts to discuss current legal and scientific developments in the use of DNA testing.

Crime Victims and the Guardian ad Litem System
Guardians ad Litem are often appointed in domestic violence and child abuse cases to help the court determine the best interests of the child, but little attention has been paid by the victims' movement to their important role and the effect they have on crime victims. How are Guardians assigned to these cases? What are the guidelines for conducting GAL investigations and making recommendations to the court? Are Guardians sufficiently trained to understand how trauma or different ethnic backgrounds may effect how their clients present? Who should be required to pay the costs of Guardian ad Litem fees? In this workshop, a panel of legal experts will explore these and other questions relevant to crime victims involved in the Guardian ad Litem system.

Substance Abuse Among Crime Victims: Before and After the Crime
Alcohol and drug abuse have long been recognized as contributing factors in the commission of violent crime. Although some victims have histories of substance abuse, research has increasingly shown that trauma is a risk factor for alcohol and drug abuse. How widespread is substance abuse among crime victims – both before and after victimization? What are the challenges of working with victims who have substance abuse issues? Are there strategies that victim service professionals can use with victims who blame themselves for being "under the influence" when a crime was committed? What do we know about the increased recreational use of so-called "date rape" drugs like rohypnol on college campuses? This workshop convenes victim advocates and mental health professionals to discuss the latest research and intervention models designed to help victims with substance abuse issues.

Afternoon Workshop:

The State of the State of Crime Victims in Massachusetts
The Victim Bill of Rights and the Massachusetts Office for Victim Assistance were established by law 15 years ago. Since that time, dozens of other victim-related legal reforms, programs and services have been established to meet a range of victim needs, but much work still remains. How successful has Massachusetts been in meeting the needs and demands of crime victims? Where should our efforts be directed as we move into the next millenium? This workshop will feature members of the Victim and Witness Assistance Board and other criminal justice and victim policymakers in an interactive discussion about the future of the victim rights and services in Massachusetts.

The Commonwealth of Massachusetts

A Proclamation

By His Excellency

GOVERNOR ARGEO PAUL CELLUCCI

1999

WHEREAS: In 1998 alone, 37 million Americans were victimized by crime; and

WHEREAS: Violent crime crosses all gender, racial, ethnic, generational, economic, and religious boundaries, imposing profound physical, emotional, and financial losses on victims, their families, and society; and

WHEREAS: Each life lost to or touched by a senseless act of violence is one life too many; and

WHEREAS: All citizens, including crime victims, witnesses, and their families, deserve to be treated with respect, compassion, and justice; and

WHEREAS: Certain categories of crime, such as domestic violence, rape, incest, and child sexual assault, often remain underreported because victims fear skepticism, intimidation, and stigmatization; and

WHEREAS: A critical need exists for programs that assist crime victims, witnesses, and their families in protecting their rights, ensuring their safety, recovering financial losses, and rebuilding their lives; and

WHEREAS: The Massachusetts Office for Victim Assistance is dedicated to upholding the rights afforded to victims and witnesses through the Victim Bill of Rights in its ongoing efforts to ensure that the compassionate, just, and equal treatment of crime victims will become the standard throughout the Commonwealth in the next millennium;

NOW, THEREFORE, I, ARGEO PAUL CELLUCCI, Governor of the Commonwealth of Massachusetts, do hereby proclaim the week of April 25th through May 1st, 1999, to be

VICTIM RIGHTS WEEK

and urge all the citizens of the Commonwealth to take cognizance of this event and participate fittingly in its observance.

Given at the Executive Chamber in Boston, this sixteenth day of March, in the year of our Lord one thousand nine hundred and ninety-nine, and of the Independence of the United States of America, the two hundred and twenty-third.

Argeo Paul Cellucci

ARGEO PAUL CELLUCCI

By His Excellency the Governor

William F. Galvin

WILLIAM F. GALVIN
Secretary of the Commonwealth

GOD SAVE THE COMMONWEALTH OF MASSACHUSETTS

Christopher A. Darden
Associate Professor of Law

B.S, Criminal Justice Administration, California State University, San Jose, 1977; J.D., 1980, University of California, Hastings College of Law; Member, California State Bar

Christopher Darden brings 15 years experience as a Los Angeles County Deputy District Attorney to the classroom. During his career, he worked in the Hard Core Gang Division and as a member of the Felony Trial Team where he tried 19 homicide cases and a variety of violent felonies.

Promoted to Assistant Head Deputy of the DA's Special Investigations Division, Professor Darden supervised 15 attorneys in the unit which is responsible for investigating police officer-involved shootings, in-custody deaths, excessive force allegations, misconduct of public officials, and election law violations. Among the cases he prosecuted was the highly publicized police misconduct case known as the "39th & Dalton" incident. In 1994, he was appointed co-lead prosecutor in the "trial of the century," the O.J. Simpson case. At the trial's conclusion in 1996, he declined an appointment as Deputy-in-Charge of the District Attorney's Inglewood Area Office and instead, joined Southwestern's full-time faculty. (He had begun his association with Southwestern as a member of the law school's adjunct faculty.)

Very active in professional and community organizations, Professor Darden is a member of the Executive Committee of the California State Bar Criminal Law Section (1994-97), and a long-time member of the Board of Directors of Loved Ones of Homicide Victims (1987-present) for which he also served a term as president. He is also on the boards of the National Black Prosecutors Association (NBPA) and the Los Angeles County Association of Deputy District Attorneys. Professor Darden was honored for volunteer work and career in public service at a "Special Los Angeles County Second District Tribute" sponsored by Los Angeles County Supervisor Yvonne B. Burke, the John M. La[illegible] Bar Association and others. He has also received the 1995 Distinguished Alumnus Award from the Criminal Justice Department at California State University, San Jose, and in the past year has been honored by the NBPA, the Los Angeles Press Club, and other entities.

Recognition of Victim Witness Advocates

Ten Years of Service

Beth Brooks: Cape and Islands District
Mary Carroll: Plymouth County
Maura Cashman: Suffolk County
Diane Coffey: Suffolk County
Helena Dunn: Suffolk County
Marnie Edwards: Cape and Islands District
Kathleen Finnegan: Cape and Islands District
Page Frenzo: Cape and Islands District
Susan Goldfarb: Suffolk County
Elida Hem Kim: Essex County
Kathleen O'Connor: Hampden County
Judith Norton Senfleben: Criminal History Systems Board

Fifteen Years

Virginia Bein: Cape and Islands District
Tyler Burke: Essex County
Debbie Fitzgibbon Chieco: Hampden County
Elizabeth Keegan: Berkshire County
Susan O' L. Hall: Cape and Islands District
Anthony Pellegrini: Worcester County
Bonnie Press: Northwestern District
Cindy Shoer: Essex County

Twenty Years

Gayle Beaudoin: Essex County
Alberta DePesa: Norfolk County
Susan Zoia: Essex County

Massachusetts Office for Victim Assistance
Calendar of Events Recognizing Victim Rights Observance
April 25 - May 1, 1999

EVENT	DATE/TIME LOCATION	CONTACT
ANNUAL VICTIM RIGHTS CONFERENCE Statewide conference sponsored by the Massachusetts Office for Victim Assistance, Victim and Witness Assistance Board, Attorney General Tom Reilly, and dozens of victim rights and advocacy organizations. Christopher Darden is this year's keynote speaker.	April 28, 1999 7:30 am - 4:00 pm State House Boston	MASSACHUSETTS OFFICE FOR VICTIM ASSISTANCE (617) 727-5200
DONATION DRIVE FOR H.A.W.C. The Parole Board's Victims Service Unit will be accepting donations for H.A.W.C. (Help for Abused Women and their Children). The shelter is in desperate need of: towels, twin size sheets, and medical items (aspirin, bandaids and cold remedies). The shelter cannot accept any donations of clothing at this time.	April 1 - 30, 1999 27-34 Wormwood St. Boston	Lisa Cucurullo Victims Service Unit Mass. Parole Board (617) 727-3271
CHARITY RAFFLE The Parole Board Victims Service Unit will be holding a charity raffle. Participants will buy $1 chances to become eligible to win one of many prizes, such as a handcrafted birdhouse, gift certificates and sweatshirts. All the proceeds will be donated to a domestic violence shelter in Massachusetts. Drawing will be held May 5, 1999.	April 1 - May 5, 1999 27-34 Wormwood St. Boston	Lisa Cucurullo Victims Service Unit Mass. Parole Board (617) 727-3271
CRIMES OF THE NEW MILLENIUM 11th Annual Victim Rights Conference sponsored by Baystate Medical Center Children's Hospital Department of Pediatrics, the Hampden County District Attorney's Office, SAFEKIDS Program, and the Office of Continuing Education	April 8, 1999 Springfield Marriott Hotel 8:00 am - 3:30 pm	Joanna Barnett Baystate Med. Center (413) 794-2192
LOUIS D. BROWN FELLOWS AWARD CEREMONY This award is conferred on 30 high school students every year for their demonstrated understanding of peace. This is a free event attended regularly by about 500 students, parents, teachers, community activists, business leaders, and public officials.	April 9, 1999 5:30 pm - 7:30pm Hynes Convention Center 900 Boylston Street Boston	Lynda J. McNally (617) 267-0082

EVENT	DATE/TIME LOCATION	CONTACT
CREATE YOUR OWN T-SHIRT WORKSHOP AND DISPLAY For adult/child survivors of sexual and/or physical abuse and their loved ones. This event is to acknowledge the strength of survivors. Supplies will be provided. T-shirts will be on display at RoxComp from 4/19-4/23 and at the Statehouse on 4/28 from 8:00 am - 4:00 pm	April 14, 1999 1 pm - 7 pm RoxComp Victims of Violence Unit 330 MLK Blvd Boston	Marsha & Lisa (617)541-3790 Ext. 603 Laura (617)541-3790 Ext. 720
LIVING WITH GRIEF: At Work, At School, At Worship The Hospice Foundation of America's Sixth Annual National Bereavement Teleconference will feature a panel of experts who will explore the ways that grief influences us in various settings. The teleconference will be moderated by ABC News Correspondent Cokie Roberts. A list of MA sites is available on the internet: http://www.hospicefoundation.org	April 14, 1999 1:00 pm - 4:30 pm Viewing sites available across the state.	The National Center for Death Education Mt. Ida College (617) 928-4649 (617) 928-4714
DYING AND GRIEVING: Horizons of Hope The Annual Conference on loss and transition presented by the New England Center for Loss and Transition.	April 21 - 23, 1999 Marriott Hotel Springfield Mass. 8:30 am - 5:00 pm	New England Center for Loss and Transition 1-800-887-5677
7th ANNUAL WALK FOR H.A.W.C. A five mild walk through historic Salem to raise funds for Help for Abused Women and their Children.	April 25, 1999 2:00 pm Museum Place Mall Salem, MA	Deborah Gardner Walker (978) 744-8552 Ext. 19
WALK FOR WOMEN'S LIVES 9th annual Walk for Women's lives. A four mile walk through scenic Concord to help raise awareness of the issue of violence against women. Sponsored by the Walk for Women's Lives Committee, which includes representatives from Alternative House, Rape Crisis Services of Greater Lowell, Support Committee for Battered Women, Women's Protective Services any many other domestic violence and sexual assault programs.	April 25, 1999 12:00 pm Concord Academy Concord	Jennifer Drost (978) 937-5777
CORI CERTIFICATION PRESS CONFERENCE Joey Fournier Services is holding a press conference to raise awareness of the rights of victims, families and witnesses to be certified to receive information on a prisoner's escape, release, parole, commutation or correctional facility reassignment.	April 25, 1999 12:00 noon Suffolk County Jail 200 Nashua Street Boston	Kimberly Fantini Director, Joey Fournier Services (978) 837-5474 1-800-533-JOEY

EVENT	TIME/PLACE LOCATION	CONTACT
"EXERCISE YOUR RIGHTS!" Use your exercise routine to help raise funds for victim services! Exercise strengthens the body and empowers the mind. Get friends, family members and colleagues to sponsor you in your exercise routine as a way to support child and adult victim services at the Trauma Center. Join us at a participating gym or use your own fitness center.	April 25 - May 1, 1999 Multiple locations Call for information and pledge sheets	Kevin Becker The Trauma Center Arbour Health System Foundation (617) 731-3200 Ext. 499
"ATHLETES AND CRIMES AGAINST WOMEN" Featured speaker will be Jeff Benedict, author of *Public Heroes, Private Felons*. Mr. Benedict is an expert in the field. Sponsored by Greenfield Community College, the event is part of Franklin County's Week of Awareness.	April 26, 1999 12:00 noon Greenfield Comm. College, Sloan Theater Greenfield	Donna Larson (413) 775-1432
CLOTHING AND CHILDREN'S SUPPLIES DRIVE The Victim Witness Program of the Suffolk County District Attorney's Office will be collecting clothing and children's supplies for local shelters.	April 26 - 30, 1999 Various locations	Jackie Lamond, Heather Ritchie or Tara Schaffer Victim Witness Program (617) 619-4000
CANDLELIGHT VIGIL The Eastern District Attorney's Office and co-sponsoring victim service agencies are holding a candlelight vigil on Salem Common.	April 26, 1999 6:30 pm - 7:30 pm Salem Common Salem	Michaelene McCann Director, Victim Witness Program (978)745-6610 X102
DEPARTMENT OF CORRECTION BREAKFAST The Executive Office of Public Safety and Department of Correction welcome victims and survivors of crime to a Victims' Breakfast in honor of Victim Rights Week. Come hear about the newly expanded Victim Service Unit and meet Jane Perlov new Secretary of Public Safety and Michael T. Maloney, Commissioner of Corrections.	April 26, 1999 9:00 am - 11:00 am 1 Ashburton Place 21st Floor Boston	Allison Price Director of Victim Services, DOC (617) 727-3300 Ext. 179
VICTIM RIGHTS INFORMATION TABLE The Victim Witness Program of the Suffolk County District Attorney's Office will have a victim rights information table at the entrance of the New Court House.	April 27, 1999 and April 29, 1999 12:30 pm - 1:30 pm Boston Municipal Court Boston	Anne Benson, Jen Caldwell or Winnie Yam Victim Witness Program (617) 619-4000
OPEN HOUSE The Melrose Alliance Against Violence will sponsor an open house to give community members a chance to meet staff and learn about the resources available for victims of domestic violence and their family members.	April 27, 1999 9:00 am - 3:00 pm 7:00 pm - 9:00 pm One E. Emerson St. Melrose	Rebecca Mooney Program Coordinator (781) 662-2010

EVENT	TIME/DATE LOCATION	CONTACT
THE CLOTHESLINE PROJECT This is a visual display that bears witness to the violence against women and children. The clothesline is hung with T-shirts that have been painted by survivors or their friends and family, and speaks to their experiences with violence. Sponsored by Greenfield Community College and part of Franklin County's Week of Awareness	April 28 & 29, 1999 10:00 a.m. - 7:00 p.m. Greenfield Comm. College South Lawn Greenfield	Donna Larson (413) 775-1432
MALDEN DRAWS THE LINE AGAINST VIOLENCE Sponsored by Services Against Family Violence, this event will feature a performance of *The Yellow Dress* and an exhibition of art work. The art wok is a response to domestic violence	April 28, 1999 6:00 pm Malden High School Malden	Tamar Kurlaender (781) 324-2221
BROWN BAG LUNCH AND FILM FESTIVAL The Victims Service Unit of the Parole Board will be showing two films: "For Your Protection: 209A video for Victims of Domestic Violence" and "Promising Practices-Community Partnerships Helping Victims". Please bring your own brown bag lunch - we will provide the snacks!	April 29, 1999 12:00 pm 27-43 Wormwood Street 3rd Floor Boston	Mariann Descoteau or Christine O'Connor Victims Service Unit Mass. Parole Board (617) 727-3271
LAMP'S 10 YEAR ANNIVERSARY AND 2ND ANNUAL GOSPEL CONCERT Come join homicide survivors all around the city as they meet to partake in a peaceful gathering in commemoration of their loved ones taken by violence.	May 1, 1999 6:30 pm Concord Baptist Church Boston	Christine Caines-Dodson (617) 541-3790
REMEMBRANCE GARDEN PLANTING Please join friends, family and staff of the After Homicide Program in planting flowers in memory of loved ones lost to homicide and vehicular homicide. Cookout to follow at the Worcester Youth Guidance Center.	May 1, 1999 11:00 am - 2:00 pm Lincoln Square Worcester *rain date: May 2nd	Maureen Ahern and Susan Tritell (508) 791-3261
"CONFRONTING VIOLENCE: HOPE FOR OUR FUTURE" Community discussion on how to support youth confronting conflict in a culture of violence. Psychologist Ervin Staub, author of *The Roots of Evil* will participate. Sponsored by Interfaith Council of Franklin County and Traprock Peace Center, the event is part of Franklin Count's Week of Awareness.	May 2, 1999 7:00 pm - 9:00 pm Greenfield High School Cafeteria Greenfield	Sunny Miller (413) 773-7427
T-SHIRT PAINTING FOR CLOTHESLINE PROJECT IN ATHOL Bring your stories, bring your strength, bring yourself. T-shirts and supplies provided. Sponsored by NELCWIT, the event is part of Franklin County's Week of Awareness.	May 3 & 5, 1999 NELCWIT 10 Park Street Greenfield	Helen Clydesdale (413) 772-0871

EVENT	DATE/TIME LOCATION	CONTACT
WOMEN IN ACTION OPEN HOUSE Women in Action will be hosting a variety of activities as part of a prevention education project for women. Activities include Political Theater and the opportunity to sample good food. Part of Franklin County's Week of Awareness.	May 3, 1999 1:00 pm - 7:00 pm 14 Miles Street Greenfield	Bonnie Zellers (413) 775-0574
COMMUNITY CONVERSATION ON HOMELESSNESS Large and small facilitated group dialogues on the issue of homelessness in our community. Sponsored by the Franklin Mediation and Training Collaborative and part of Franklin County's Week of Awareness.	May 3, 1999 7:00 pm - 9:00 pm St. James Episcopal Church 8 Church Street Greenfield	Wendy Foxmyn (413) 774-7469
EVENT TO RECOGNIZE MASSACHUSETTS VIOLENCE PREVENTION MONTH AND NATIONAL SUICIDE PREVENTION WEEK This event will focus attention on suicide as a public health problem. Featured speakers will include Commissioner Howard K. Koh of the Massachusetts Department of Public Health and Lloyd B. Potter of the Centers for Disease Control and Prevention.	May 3, 1999 9:30 am - 11:30 am Nurses Hall State House Boston	Registration deadline: **April 28, 1999** To register call: (978) 688-0030
"WORKING TOGETHER TO COMBAT DOMESTIC VIOLENCE" A celebration of the community's effort to address domestic violence. The program will include a summary of the history of our efforts, the current realities, and future plans and dreams. There will be an acknowledgment of the work of shelters, police, prosecutors, advocates and community educators. Sponsored by Northwestern District Attorney Scheibel's Office. Part of Franklin County's Week of Awareness	May 4, 1999 4:00 pm - 5:30 pm St. Anne's Parish Hall Sixth Street Turners Falls	Susan Manatt Director, Victim Witness Program Northwestern DA's Office (413) 586-5780
VICTIM RIGHTS WEEK TRAINING AND CEREMONY The Massachusetts Parole Board cordially invites you to attend the annual Victim Rights Week Ceremony and Training. Bette Spear, Omega Support Services, will present on "The Aftermath of Traumatic Loss". Donations collected during the month will be donated to HAWC. Refreshments will be served. Please RSVP.	May 5, 1999 10:00 am - 12:00 pm 27-43 Worwood Street Boston	Linda Sweeney Victims Service Unit Mass. Parole Board (617) 727-3271
"PREVENTING VIOLENCE IN INTIMATE RELATIONSHIPS" Event features Jeff O'Brian, sports professional and MVP (Mentor in Violence Prevention), and speakers Scott and Nancy Girard who share how domestic violence affected their marriage and the tools they have learned to help them change their lives. Sponsored by the North Quabbin Community Coalition Violence Task Force and part of Franklin County's Week of Awareness.	May 5, 1999 7:00 pm - 9:00 pm Athol Town Hall Athol *Pizza offered at 6:30 pm	Karen Fogliatti (978) 249-9927

EVENT	DATE/TIME LOCATION	CONTACT
"TAKE BACK OUR LIVES" RALLY AND MARCH A rally and march to speak out against violence against women in our community. Rally will feature a display of the Clothesline Project and artwork by elementary school children of Athol and Orange displayed along the march route. Sponsored by NELCWIT and Part of Franklin County's Week of Awareness.	May 6, 1999 7:00 pm - 9:00 pm Orange Memorial Park Orange	Crystal Thomas (978) 249-2938
3rd ANNUAL MOTHER'S WALK FOR PEACE This walk will bring together people from around the state to walk 3.6 miles to promote peace and highlight the need for parents to band together to protect each other's children. Funds raised will benefit the Louis D. Brown Peace Curriculum	May 9, 1999 Registration - 6 am Walk begins - 8 am Fields Corner Dorchester	William Forry (617) 436-5275
NETWORKING BREAKFAST FOR CAREGIVING PROFESSIONALS WORKING WITH END OF LIFE ILLNESS AND BEREAVEMENT This continental breakfast will feature a keynote address by Dr. Phyllis Silverman who is a Boston-based clinician, researcher and author of the book *Continuing Bonds: New Understandings of Grief.*	May 14, 1999 8:30 am - 10:00 am Mt. Ida College Newton	Judith Harding Director, Nat'l Center for Death Education (617) 928-4649
WALK FOR WOMEN'S SAFETY This is a 5 mile walk to raise funds for the Domestic Violence Program at Brockton Family and Community Resources, Inc. It is sponsored by Good Samaritan Medical Center.	May 15, 1999 9:00 am Good Samaritan M.C. 235 Pearl St. Brockton	Carolyn Lampos (508) 583-2045
PEACE DAY: MEIKO HILL REMEMBERED Celebrate Peace Day '99, a family day celebration of peace, with friends and family of Matthew "Meiko" Hill who fell victim to a senseless act of violence as he stood trying to protect a friend.	May 16, 1999 2:00 pm O'Day Park Shawmut Ave South End, Boston	Dorothea & Tipp Harris (617) 287-2434
CHRIS MAKI AWARENESS WALK Bring friends and family for a walk through the center of Lunenberg to raise awareness about the violence prevalent in today's society. Proceeds from the 3 mile walk will benefit the Chris Maki Scholarship Fund. Chris was 30 years old and was working as an environmental scientist when he was robbed and murdered in Charlotte, North Carolina on November 5, 1997.	May 16, 1999 1:00 pm St. Boniface Church Lunenberg, MA	Ray or Jane Maki (978) 345-1870 Amy Maki Gough (617) 742-4819 Andrew Maki (617) 723-2821
MEMORIAL SERVICE FOR HOMICIDE VICTIMS This is an annual memorial service dedicated to those who have been killed by violence. Sponsored by the Post-Homicide Family Support Program.	June 7, 1999 5:30 pm Court Square Springfield, MA	Karen Schneider (413) 732-7419

LEGISLATIVE HEARINGS		
BILL	DATE	SPONSOR/ COMMITTEE
S.749, S.745 - *An Act to Enhance Inter-Agency Communication in Criminal Proceedings Regarding Juvenile and Youthful Offenders*	April 6, 1999 1:00 pm Ro[illegible]2	MDAA Sen. Berry *Judiciary Committee*
S.805 - *An Act Establishing Crime Victims Restitution*	April 15, 1999 1:00 pm Room B-1	MOVA Sen. Cheryl Jacques *Judiciary Committee*
H.2556 - *A Proposal for a Legislative Amendment to the Constitution Rela[illegible] to Victims of Crime*	April 15m 1999 1:00 pm Room B-1	MOVA Rep. Kathleen Teahan, *Judiciar[illegible] Committee*
S.804 - *An Act Relative to Profits from Crime*	April 1999 1:00 [illegible] Room B-1	MOVA Sen. Cheryl Jacques *Judiciary Committee*
S.746 - *An Act Making Technical Corrections to the Victim Rights Bill*	April 15, 1999 [illegible]0 pm Room B-1	MOVA Sen. Frederick Berry *Judiciary Committee*
H.3507 - *An Act to Further Amend the Victim Compensa[illegible]n La[illegible]*	April 15, 1999 1:00 pm Room B-1	Rep. John Rogers *Judiciary Committee*
H.3702 - *An Act to Successfully Prosecute Sexual Assault Perpetrators*	April 15, 1999 1:00 pm Room B-1	Rep. John Rogers Sen. Cheryl Jacques Mass. Nurses Assoc. *Judiciary Committee*
S.1418 and H.2153 - *An Act Providing Address Confidentiality for Victims of Domestic Abuse, Rape, Sexual Assault and Stalking*	Hearing on H.2153 May 18, 1999 1:00 pm Room A-2 Hearing on S.1418 June 2, 1999	Rep. Tolman Secretary of State *Judiciary Committee* MOVA Sen. Cheryl Jacques *State Administration Committee*
H.4227 - *An Act to Prohibit the Use of the Accord and Satisfaction Statute to Terminate Domestic Violence Prosecutions*	Referred to Judiciary Committee on April 1, 1999	Sen. Creem Gov. Cellucci

Workshop One

Exploring Forgiveness: Is it Necessary for Healing?

Exploring Forgiveness: Is It Necessary for Healing?

Moderator: Elizabeth Scheibel, District Attorney
Northwestern District Attorney's Office
One Gleason Plaza
Northampton, MA 01060
(413)586-5780

Panelists: Kathleen Alexander, Director of Community Education and Training
Northwestern District Attorney's Office
One Gleason Plaza
Northampton, MA 01060
(413)586-9225 ext. 209

George and Virginia Lester
395 Oak Street
Westwood, MA 02090-3220
(781)769-1429

Coordinator: Alyssa Kazin, MOVA

FORGIVENESS

A rebirth of hope, a reorganization of thought, and a reconstruction of dreams. When forgiving is complete, meaning has been extracted from the worst of experiences and used to create a new set of moral rules and a new interpretation of life's events.

--Beverly Flanigan, MSSW.

"UNFORGIVABLE" INJURIES

A profound and irreversible assault on the fundamental belief system of the person who has been injured.

Unforgivable injuries shatter beliefs at three levels:

- The injured person's assumption that the behavior of other people in their lives can be predicted.
- They take away a wounded person's belief in self, particularly in regard to control over circumstances.
- They destroy ideas of fairness, logic and order, predictability and goodness, of God and man.

Source: Forgiving the Unforgivable, Beverly Flanigan. Macmilllan Publishing 1992.

WHAT FORGIVENESS IS NOT

1. Forgiveness is *not* forgetting.
   We do not erase painful past experiences from our memory. Those experiences, and even the pain they caused have a great deal to teach us, both about not being victimized and about not victimizing others.

2. Forgiveness is *not* condoning. We lessen the past's impact on our present and future, but this does not alter the fact that the injuries and injustices we experiences were painful and unfair.

3. Forgiveness is *not* absolution. We do not absolve injurers for the responsibility of their actions. They are still responsible for what they did and must make peace with the past.

4. Forgiveness is *not* a form of self-sacrifice. Forgiveness is not gritting our teeth and tolerating the people who hurt us. It is better to acknowledge we are not ready to forgive than to pretend.

5. Forgiveness is *not* a clear-cut, one-time decision. It cannot be forced. Forgiveness is what happens naturally as a result of confronting painful past experiences and healing old wounds.

WHAT FORGIVENESS IS

1. Forgiveness is a by-product of an ongoing healing process. Forgiveness is the gift at the end of the healing process.

2. Forgiveness is an internal process. It happens within us. It is a feeling of wellness and freedom and acceptance.

3. Forgiveness is a sign of positive self-esteem. It is no longer building our identity around something that happened to us in the past. Instead of being a moral obligation, it is our moral right--a right to stop being hurt by events in our past.

4. Forgiveness is letting go of the intense emotions attached to incidents from our past.

5. Forgiveness is recognizing that we no longer need our grudges and resentments, our hatred and self-pity. We do not need them as an identity.

6. Forgiveness is no longer wanting to punish the people who hurt us.

7. Forgiveness is accepting that nothing we do to punish *them* will heal *us*.

8. Forgiveness is freeing up and putting to better use the energy once consumed by anger.

9. Forgiveness is moving on.

Source: *Forgiveness, How to Make Peace With Your Past and Get On With Your Life*, Sidney and Suzanne Simon. Warner Books. 1990.

FORGIVENESS

Forgiveness is God's invention for coming to terms with a world in which , despite their best intentions, people are unfair to each other and hurt each other deeply. He began by forgiving us. And He invites us all to forgive each other. Lewis B. Smedes

The Four Stages of Forgiving:

1. Hurt:

When somebody causes you pain so deep and unfair that you cannot forget it, you are pushed into the first stage of crisis of forgiving.

2. Hate:

You cannot shake the memory of how much you were hurt, and you cannot wish your enemy well. You sometimes want the person who hurt you to suffer as you are suffering.

3. Healing:

You are given the "magic eyes" to see the person who hurt you in a new light. Your memory is healed, you turn back the flow of pain and are free again.

4. The Coming Together:

You invite the person who hurt you back into your life; if he or she comes honestly, love can move you both toward a new and healed relationship. The fourth stage depends on the person you forgive as much as it depends on you; sometimes he doesn't come back and you have to be healed alone. Source: *Forgive and Forget, Healing the Hurts We Don't Deserve.* Lewis Smedes. 1984.

FORGIVENESS EXERCISE

Beneficial for anyone in the healing process.

Relax, shut your eyes, and visualize a hot-air balloon that is attached not to the customary basket, but to a garbage can. The balloon is tethered to the ground at the moment. Imagine yourself walking over to it, lifting the lid off the garbage can, and dumping all of your emotional garbage into it. Fill the garbage can with your old injuries and injustices, and your resentments and self-deprecating statements, your helpless, hopeless, feelings. Tear off your victim label and toss it in. And while you are at it, remove your blinders and trash them, too.

Then replace the lid, untether the balloon, and watch it float away, taking your victim thoughts, feelings and behaviors with it. Watch it until it is no more than a speck high in the sky, repeating to yourself, "I release my hurts."

While working your way out of the victim stage, try to use this visualization every day. The exercise will allow you to let go of the pain for a few minutes, hours, or days at a time, and that leaves you open to the possibility of moving on.

Philip H. Friedman.

A New Lease on Life

I'm a survivor....Being a survivor doesn't mean you have to be made out of steel, and it doesn't mean you have to be ruthless. It means you have to be basically on your own side and want to win. --Linda Ronstadt

Source: *Forgiveness: How to Make Peace with Your Past and Get on With Your Life* by Dr. Sidney B. Simon and Suzanne Simon. Warner Books, 1990.

ALBERT'S MOTHER

Virginia (Bowen) Lester is a native of Chickamauga, GA near Chattanooga, TN, where she graduated from the Girls' Preparatory School in 1949. She attended Randolph-Macon Woman's College and received her B.A. degree from Vanderbilt University in 1953.

Married in 1956 to George N. Lester, an electrical engineer from Atlanta, Virginia and George have lived in Westwood, MA since 1959. They raised two sons. Young George, who lives in Medfield, is an attorney in Boston. Albert is buried in the Westwood Cemetery.

Virginia is a past president of the Westwood Garden Club and of the Westwood Woman's Club. She is a member of the Walpole Woman's Club and active in the General Federation of Women's Clubs of Massachusetts. Currently she is chairman of the GFWC of MA Memorial Forest in Sudbury.

Virginia has told "Albert's Story" to about 25,000 high school students in Massachusetts and upstate New York and to about 5000 drunk driving offenders in the two states. She has been commended for her efforts by the National Commission Against Drunk Driving.

Contacts for speaking have been through Mothers Against Drunk Driving, Students Against Destructive Decisions, Remove Intoxicated Drivers, American Automobile Association, Governor's Highway Safety Bureau, Norfolk County District Attorney's Office, Albert's friends and word of mouth. For more information, you may call Virginia at 781-769-1429.

"Our roads are the ribbons that tie us together and unite us as a nation. They must be safe!"

Virginia Lester
January 1993

ALBERT'S STORY

An Alcohol Awareness Presentation
For High School Students or Parents

by Virginia Lester, Mother
Albert Lester, Son
Sept. 26, 1960 - June 7, 1992

(Killed on his bicycle by
a teenage drunk driver)

"The future of this country and of the world depends on the youth of today.
It is they who will be the leaders of nations, the captains of industry of tomorrow."

Albert Lester
January 1992

EXCERPTS from "ALBERT'S STORY"

It was Prom Night in Fulton County, N.Y., but not everyone went to the Prom. Five boys, 19, 18, 16, 14, pooled their resources and went to a package store, then took off for a wooded campsite.

Meanwhile, 70 top cyclists were bicycling 24 hours, testing their endurance for the Race Across America. One of the cyclists was our son, Albert Lester.

Albert was 31, an MIT graduate. He'd resigned from his high tech job to pursue a Master's degree and certification to teach high school math and science.

Albert had bicycled 50,000 miles in this country and in Europe. His trips led to his involvement with the American Youth Hostels, and his AYH experiences led to his decision to teach.

Applying to graduate school, he wrote, "As a teacher I would hope to encourage and inspire young people to live their lives to their greatest potential, both inside and outside the classroom. ... I believe I have what it takes to be a good teacher and that by attending Harvard can fulfill that dream."

So what happened to that dream and to all that was and would have been Albert Lester? And why do I go to high schools now to tell "Albert's Story" instead of Albert being there to teach?

Remember the boys at the campsite? Beer is sort of like peanuts, popcorn, potato chips. It's hard to have just one and easy to lose count after two. But even a small amount of alcohol can affect one's judgment, concentration and reflex actions.

Two of the boys had passed out, and the other three wanted to go home. They'd lost their good sense and got in the car. They made it less than five miles down the road.

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Speeding and weaving all over the road, at a downhill curve the car crossed the center line to the opposite shoulder and hit Albert head-on. He was catapulted off his bike onto the hood of the car and crashed into the windshield. Glass went in on the boys, they swerved; and Albert was flung off into the ditch.

Police officers told us the hardest thing any parent ever has to do is to bury their child. Yes, but every day since then has also been hard.

While we made arrangements for a funeral, an arraignment was held for the driver. His parents had to hire a defense attorney, round up money for bail and see their son in handcuffs and chains.

Later his father wrote us, "We had to put our son in jail, but you had to put your son in a casket. Our son will come home some day, but your son never will. The loneliness we feel makes us know how lonely and how empty you must feel."

At his sentencing, the driver, 18, said, "June 7, 1992, forever changed my life, my family's life, Albert Lester's life, and the lives of Albert's family. ... I hope those people who hear or read what I have done listen and understand to never drink and drive."

The young man spent almost three years in a New York State Prison with strict parole for the balance of his four year sentence. He told his father he would never drink again, that it's just not worth it!

He's 24 now and has turned his life around; but oh, what a price, what a price we've all had to pay!

Education lost a teacher;
Recreation, a volunteer leader.
We lost our son and brother,
And the world lost a friend.

"FORGIVENESS" - MOVA Workshop, State House, April 28, 1999. Virginia Lester

Forgiveness is probably the most powerful word in the English language. Yet it means different things to different people at different times under different circumstances. Your child trips and falls bringing your Mother's Day plate of dinner to you, breaks your nice plate, spills food, cries and says, "I'm sorry." What do you do? You hug your child, pick up the pieces, clean up the mess and serve another plate. But what if someone kills your child, then cries and says, "I'm sorry"? How do you deal with that?

Courts help when they handle the case well and require a suitable punishment. But ultimately it's the victim's family who must determine the course of their own lives. Will their lives be filled with bitterness and hatred, eating them up from the inside out? Or will they survive with an open mind to the long, hard process of trying to understand the senseless and forgive the unforgivable so their own lives will not also be destroyed?

To forgive no doubt takes some kind of mysterious divine action in one's life. For some people it may be totally impossible, and understandably so. But for me, even though I didn't understand it at the time, it became a means of survival and a chance to live a productive life honoring my son, Albert Lester.

Albert was 31, a graduate of MIT. He ha recently given up an excellent career to prepare to teach high school mathematics and science when he was killed on his bicycle by an 18-year-old drunk driver during a 24-hour bicycling event in upstate New York on June 7, 1992.

When the police officers left after notifying us of Albert's death, I told my husband that I'd always been a forgiving person but that if anyone ever wanted forgiveness for this, they would have to ask God or Albert because I wouldn't know how to forgive this! From then on, until long after sentencing, I put the idea completely out of my mind. I just kept saying to myself, "'Vengeance is mine; I will repay,' saith the Lord."

Now, I am going to share with you a few things that happened behind the scenes that eventually led to my coming to terms with the driver. Just remember, no two people or situations are ever exactly alike. We were blessed in many ways, but especially with a memory of the courage and inspiration of our son, Albert.

Two weeks after Albert was killed, we went to Johnstown, New York, to meet the Sheriff's Investigator. He took us to the site and explained the crash to us. We left flowers and a flag in the ditch where Albert had landed.

The next day my husband and I went back to the ditch on our own. Parking at the top of the hill, we walked down the rural road to the site. We had just reached the site when a car passed by and slowed down. The driver looked at us and then at our car with a Massachusetts license. I was relieved when the car went on around the curve at the top of the hill. But then, the car came back down and pulled off the other side of the road. I froze in fear.

A man about Albert's age got out, walked across the road, and said, "You must be the parents." I was scared, but I said, "Yes". Then he said, "I'm the brother of the guy who did it." Something about his face prompted my response. I said, "Oh, then you have sorrow in your family too." "Oh, yes, ma'am," he said; "We are a very sorrowful family."

I told him about Albert and our family. He told us about his brother and their family. When he left, we both knew we would meet again in the courtroom.

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Three weeks later, we met with the District Attorney. He told us the driver's parents had come in and wanted to write to us to express their condolences. When he asked how we felt about that, I was icy cold and said, "No". Wisely, the D.A. said, "Let me know if you ever change your mind."

The next day when I took something to the district attorney, he brought in a man from the hall and introduced him. He was the attorney for the defense! We talked briefly, then he asked if the parents could write to express condolences. This time I said, "Not now, maybe later. Just give us some time."

When the Grand Jury met two weeks later, I spent the day in Albert's room. I came across a folded piece of paper with these words in Albert's handwriting: "Your heartaches may be great, your burdens heavy; but look about you, and with whom would you change?" I thought about the driver's mother and how she must feel. Then I thought about myself and how proud I was to be Albert's mother.

On the back of the paper was written the name and address of one of Albert's cycling friends, Andrew Spiller. Andy had been killed an hour earlier in the same bicycling event by another 18-year-old drunk driver who was also killed.

When I unfolded the paper, I found this quotation, also in Albert's handwriting: "We must not desire all to begin with perfection. It matters little how we begin as long as we be resolved to go on well and to end well." Then I thought about the driver, and I was thankful he was alive.

But meanwhile, I could not speak or even think the driver's name. He was an object, a thing, "the offender". But my driving was affected, and I was stopped and ordered to get help. On my way home, I shouted out the full name of the driver and added, "I'm not going to let you do this to me! You've done enough to my family already!"

When I got home, I ran to Albert's room for his favorite poem, called "Success". It ends with, "Life's battles don't always go to the stronger or faster man, but soon or late the man who wins is the one who thinks he can." Albert thought he could make a difference in this world; but now if it was to be, it was up to me. I held to that determination to not be defeated!

In August the driver pleaded guilty and in September went on to Jail. Oddly, about that time, a simple monument appeared at the ditch, just a pile of rocks with a rustic cross. We did not know who built it, but it gave us comfort.

In November we received a letter from the driver's family. His father wrote straight from the heart. He expressed his family's sorrow for what their son had done to our son. And with simple words he expressed their compassion for us as Albert's family. We read and re-read it many times and were thankful he had written it. But we also were very thankful the district attorney had told us to keep an open mind.

Writing letters for the court process helped me deal with my fear, anger, grief, and rage. But the most important writing was my Victim Impact Statement for presentation in Court in January. Only one person could speak for either side, but there was no time limit.

I focused on Albert's life, his hopes and dreams, and the impact of his death on his family, friends, and community. I gave sound reasons for my requests for sentencing. I aimed toward a lasting rehabilitation.

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When I finished my statement in Court, I couldn't get a little cross back in my pocket. So I asked the Judge to give it to the young man. The Judge said I could give it to him, and so I did. As I approached, he stood up and said to me, just to me, "I'm so sorry." I said to him, just to him, "Take care of yourself." Then I put the little cross in his hand and took my seat.

His statement was well thought out, sincere, remorseful, and written in his own words. He not only asked us for forgiveness, twice in his statement and again after sentencing, but he also asked his own family for forgiveness.

After Court his parents and family spoke with us, and so did everyone else. We spent the weekend in Johnstown; and before we came home, I called his father to ask about his son. I wanted to let his family know that we would be thinking about him and that we hoped he would be all right.

His sentence was 1 1/3 - 4 years in State Prison. (He actually served 2 2/3 years with 1 1/3 on supervised Parole.) Later that year after sentencing, we saw his father again at the ditch. His face showed the worry of a father, but he expressed his concern for us.

Meanwhile, during the months after sentencing, I fell into a deep despondency. I just wanted to go join Albert. I developed cancer, had surgery and radiation. Driving to and from Boston every day for six weeks for treatment gave me time to think about whatever life I might have left. I needed something to give me hope, hope for the future.

I spoke on Victim Impact Panels here, and helped start one in Johnstown. I spoke to students in our local high school. And I was involved in getting new drunk driving laws passed. Those activities gave me some hope, but still I had a gnawing sense of emptiness, restlessness and turmoil.

In Court I had asked the Judge for permission to write to the driver in Prison. He had not said, "Yes"; but he had not said, "No". So I wrote to him anyway! He did not write back, but I kept on writing. Each time I wrote, I felt a little better, a bit stronger.

But I still had not forgiven him! I didn't know whether I ever could, but at least I had begun to think about it. He was a young person, the kind Albert would have liked to have helped. I wondered what Albert would want me to do.

The young man had been incarcerated more than two years when we met his father at the ditch again. I told [redacted] were going home a different way and would be passing by the Prison. I told him I had thought about stopping to see his son, just to make sure he was all right, but I was afraid he would not want to see me. He assured me his son would not refuse to see me and told me how to go about it. I told him I made no promises, but I asked him to prepare his son just in case.

The morning of our trip home, I woke up feeling good, but then I went into a tailspin thinking I must be crazy to even think about stopping at the Prison! But breakfast was slow; and the longer I waited, the more I felt sure that I did not want to pass up the opportunity. I might not have another chance, and I needed to find some peace.

At the Prison, I went through what I had to go through and then was admitted to a large all-purpose room where families gathered around inmates at various tables. I told the guard I had never done this before and didn't know what to do next. He pointed and said, "He's right down there at the corner table."

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He was standing up, and his parents were both there. When I reached the table, I asked, "Are you HIS NAME ?" He said, "Yes". I asked, "Do you remember me?" He said, "Yes, of course. You are Mrs. Lester." Then, I don't know what prompted it, but suddenly we both reached across the table and gave each other a hug. Then I asked, "Are you all right?" He said, "Yes". His parents put me at ease, and we all sat down together at the table.

After polite talk, I took both his hands in mine and said, "You asked in the Courtroom about forgiveness and whether we could ever forgive you." A bit sad, I looked down and said, "Of course I do." I was as surprised as anyone that I had said that, but then I knew it was the truth. When I looked back up, his face beamed with a smile that said, "I can't believe this is happening to me."

I told him I had not always felt that way, and that my husband and other son did not yet share my feeling. I told him I had had to think about it a lot and to study about it, but a magazine article at a doctor's office had helped. Then I told him three things I had learned about forgiveness:

1) Forgiveness does not mean one has to forget.
   Some things can never be forgotten, but we move on.

2) Forgiveness is freely given with no strings attached.
   There are no deals, no bargains, no promises required.

3) Forgiveness has to keep on over and over, day by day, moment by moment.
   Some say 7 times 70; but I say 70 times 700. I still had to work at it.

Before I left we hugged each other again, and he gave me an extra squeeze the way Albert used to do to make sure I stayed hugged.

A few miles down the road, the tension and restlessness began to leave my body. I enjoyed the scenery more and was more animated with my husband. I completely relaxed and thoroughly enjoyed our long trip home on the Mohawk Trail.

Six months later, just before he was to be released, we stopped at the Prison again. His brother and nephew were there, and I learned they were the ones who had built the rock monument at the ditch. My husband went in that time and was glad he did. The day after the young man was released we sent him a basket of fruit with the message, "Welcome Home".

Was forgiveness necessary? Probably not, but who was I to withhold it? My life has been more livable, my activities more effective, my outlook brighter, and I am more at peace with myself and with others. As for the young man, he has turned his life around, kept it that way, and told me I was a lot of help. I am thankful I was blessed with the grace to forgive.

The two families keep in touch and see each other occasionally. Sometimes we see the young man. He seems resolved "to go on well and end well." He is 25 now, has a good job, a good wife, a home, and now he has a son. Amazingly, his son was born on Albert's birthday! His brother summed it all up when he said, "God moves in mysterious ways, His wonders to perform."

Virginia B. Lester, Mother
Albert B. Lester, Son
Sept. 26, 1960-June 7, 1992

SAYINGS COLLECTED BY ALBERT

"Your heartaches may be great,
your burdens heavy;
but look about you and
with whom would you change?"

"We must not desire all to begin
with perfection.
It matters little how we begin
as long as we be resolved
to go on well and end well."

"The ultimate secret of life
is the sure knowledge of death;
for without it, man would not strive
to leave his mark upon the world."

NOTES ON FORGIVENESS FROM HIS MOTHER

Forgiveness does not mean one has to forget. Some things can never be forgotten, but we move on.

Forgiveness is freely given with no strings attached. No deals, no bargains, no promises can be required.

Forgiveness must go on over and over, day be day. One really has to work at it.

FAMILY SAYING FOR JOURNEYS

"Joy go with you. Peace stay behind."

SUCCESS

If you think you are beaten, you are;
If you think you dare not, you don't;
If you'd like to win, but think you can't,
It's almost a cinch you won't.
If you think you'll lose, you're lost;
For out in the world we find
Success begins with a fellow's will,
It's all in the state of mind.

Life's battles don't always go
To the stronger or faster man;
But soon or late the man who wins
Is the one who thinks he can.

THE LOST CHORD by Adelaide Proctor

Seated one day at the organ,
I was weary and ill at ease,
And my fingers wandered idly
Over the noisy keys.

I know not what I was playing,
Or what I was dreaming then;
But I struck one chord of music
Like the sound of a great A-men.

It flooded the crimson twilight
Like the close of an Angel's Psalm,
And it lay on my fever'd spirit
With a touch of infinite calm.

It quieted pain and sorrow
Like love overcoming strife;
It seemed the harmonious echo
From our discordant life.

It linked all perplexed meanings
Into one perfect peace,
And trembled into silence
As if it were loath to cease.

I have sought, but I seek it vainly,
That one lost chord divine,
which came from the soul of the organ,
And entered into mine.

It may be that Death's bright Angel
Will speak in that chord again,
It may be that only in Heaven
I shall hear that grand A-men.

Contributed by George and Virginia Lester, April 1999.

Excerpted from The Family Therapy Networker. Nov./Dec. 1998
"The Journey to Forgiveness"

by
MOLLY LAYTON

Ripped Apart

PHOTO © FRANK HERHOLDT/TONY STONE IMAGES

"Forgiveness is a reflex for when you can't stand what you know."

JANE SMILEY, *A Thousand Acres*

I OPENED THE DOOR TO MY CAR, swinging my feet out onto the dark asphalt of the driveway. Suddenly I found myself out of balance for a moment, found myself swaying into the gravel path edged by the shadowy yew bushes as if I were going to spill, chin first, onto the ground. I righted myself abruptly, jerking up marionette-style, strings taut again, and heard at that moment—with a sort of auditory hindsight—that I had been screaming, moaning really, but low and powerful, like a train coming through. The sound shocked me more than the dizziness. I had never felt a sound like that in myself before. ■ My husband had just left me, suddenly, mysteriously, and the sound in my body came from the strange rift his leaving had made. Of all the parts of my life that I had just lost—the two of us nested

WHAT DOES IT TAKE TO TURN BITTER OBSESSION INTO FORGIVENESS?

in bed at night, our working hip-to-hip in the narrow kitchen, the family's joking after dinner, elbows sprawled around the plates and glasses—the most startling loss was this, the crack in the spirit, the gyroscope tumping over, the compass points scattered.

When I was a child daydreaming on shiny metal fold-up chairs in the cool retreat of a Sunday school classroom, the act of forgiving other people, no matter how bad they hurt you, was as surely a sign of rightness as the chicken and cream gravy I knew my mother had waiting for us back home. But there came a time, *this* time, when I found myself so stunned with anger and suffering that the transcendent relief of forgiveness seemed as unreachable as heaven.

Even five years later, just having coffee with the man who was now my ex-husband, I would find myself lashed by startling wind shears of anger and sadness. I felt wronged, felt forever harmed, not just by the loss of our marriage but by his betrayal of our family life. Yet, I kept a vision of the family I still wanted to share, a relationship that had enough love and trust to carry us through children's weddings and grandchildren. So I knew that I wanted to forgive. But how would I do it, how could I forgive and move on, feeling so righteously aggrieved and, moreover, detecting in him no regret for the pain he had caused?

That question set me on a path. I took to asking friends, colleagues, spiritual gurus, clients in my own psychotherapy practice, "What's been your experience with forgiveness?" It turns out the question induces a certain hesitation.

"It's too much to get into in one afternoon," a good friend says, noticeably upset. A colleague at lunch tells me, "It's humiliating just remembering that someone could hurt me so much that I would *need* to forgive."

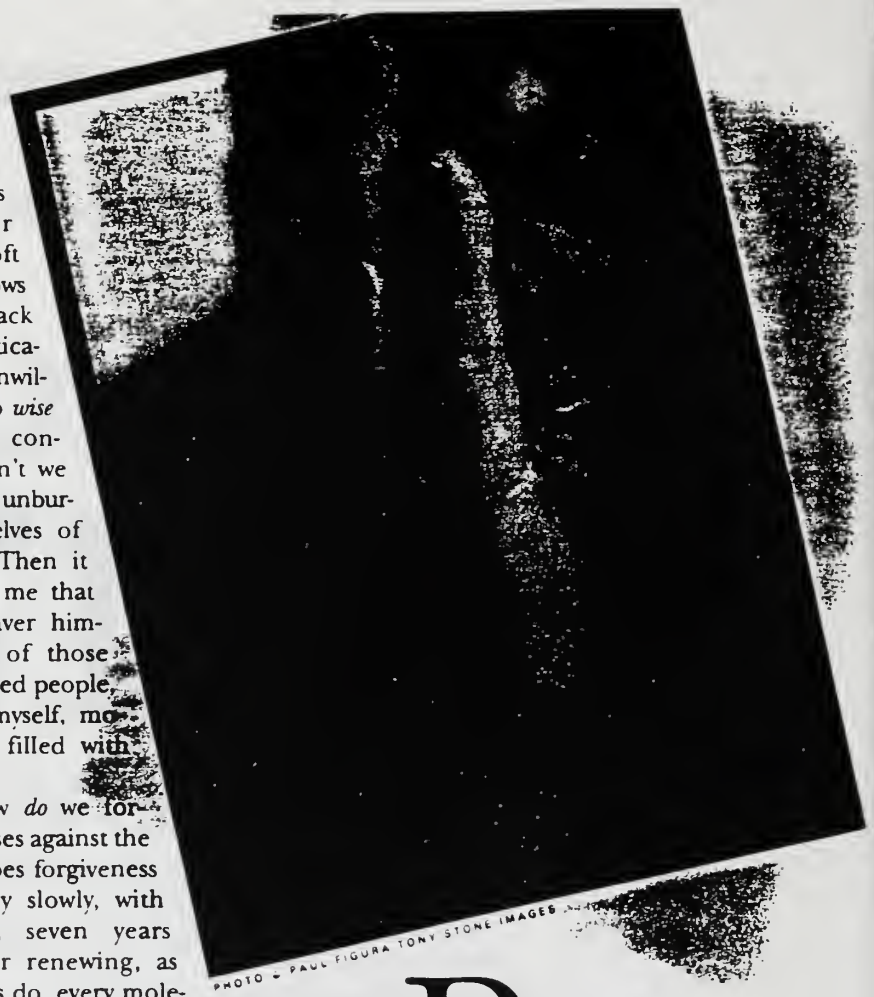
I found, in fact, that I was plunging into a politics of forgiveness, the complications of a world divided secretly into leavers and leavees, perps and victims, actors and those acted upon. "I'm trying to find a way to forgive her," I say to a friend about another's snooty cut-off.

"Why forgive that?" my friend replies, suggesting by his laughter that too soft a heart shows a certain lack of sophistication, an unwillingness to *wise up*. I'm confused. Don't we all want to unburden ourselves of hatred? Then it occurs to me that he's a leaver himself, one of those hard-hearted people, I say to myself, momentarily filled with suspicion.

But how *do* we forgive offenses against the spirit? Does forgiveness come only slowly, with time—say, seven years later, after renewing, as our bodies do, every molecule cell by cell? Is forgiveness a task best supervised by priests and rabbis and ministers? Perhaps so, but if forgiveness helps us to absorb and transform loss, it is startling to realize that its discussion is not more central in the training of psychotherapists.

People often come into psychotherapy seeking a cherished peace with someone, someone perhaps long gone, who has broken their heart—a mother who killed herself, an incestuous father, a spouse who abandoned a family. People who have been injured can find themselves with a double burden: there's the original injury—the childhood terror or the tragic, drunken auto accident—and then there's a choking hatred and disillusionment to digest. That's often a meal we are forced to eat by ourselves.

So I have come to look at the act of forgiving as a profoundly intrapsychic or spiritual shift, where we do not necessarily depend upon the will or the skill of the injuring person to ask us to forgive them. There are stories of people who *ask* to be forgiven, and while that presents a richer dilemma, I know that even in those situations,



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People who have been injured can find themselves with a double burden: there's the original injury and then there's a choking hatred and disillusionment to digest. That's often a meal we are forced to eat by ourselves.

the heart needs its preparations. For the injured and abandoned person, forgiveness often proceeds along a path from stunned innocence, to the tortures of obsession, to a surprising expansion of meaning.

INNOCENCE

In the early stages of suffering we begin a search for meaning: Why me? Do I truly deserve such pain? A great injury cracks into our childlike belief that good people surely thrive and bad people are punished.

But if we are not to believe that we are so bad that we deserve suffering, then great injury shapes a new story—the story of contamination, the world cleaved now into what is pure versus what is tainted, sweet pearly innocence set upon by rank and greasy selfishness. Without this tale of persecution of the good by the bad, injury disorients us, cracks the frame of our cherished beliefs, reveals our weak and human shame. And we'll do anything to avoid feeling shame.

However, a dogged fascination with innocence has its costs. When I first met with Jack and Ann, they were coming out of years of worry about a runaway son who had finally made it into responsible adulthood. Now facing retirement, they were turning to look at their marriage.

But Ann had stored up years of resentment about how she had labored under Jack's temper and how nobody in her family had taken her seriously. "I didn't deserve that!" she said over and over. In our sessions, at least, Jack was earnest and undefensive, but Ann unremittingly kept up an attack on him. Hour after hour, Jack absorbed Ann's painful assessments of his behavior, his obvious remorse contemptuously decried as "too little, too late."

Ann truly wanted relief from her anger, and she and I puzzled together over her dilemma. It seemed that no amount of understanding—or empathy or apology or remorse—was making it to her heart. Together, we questioned whether Ann's real argument about innocence wasn't so much with Jack as with her overbearing father, a harsh and imperial intellectual. No matter how hard her husband worked to earn her forgiveness, she was not ready to give up the power of a moral position that her judgmental father had never, not once, allowed her. At least with Jack, I said probably not too helpfully, you speak up against his temper, you try to break that spell of injured innocence.

However useful as a psychological and developmental state, innocence is vastly overrated as a moral state. The hallowed innocence of the inner child is a starting point, not a steady state. Everyone needs a fundamental experience of basic worth, of goodness at the core of one's being; it helps us tolerate the full, pulsing complexity of being truly human—which, alas, includes such realities as coming in last in a race, losing someone's love, feeling failure at letting someone down. Like calibrating scales to true zero, a sense of basic worth sets the point for all the complications of life that weigh in afterward. It's a start.

For example, because of early childhood experiences with two sexually abusive adults, my client Julia had only a tentative reckoning of her own innocence as a child. "I keep thinking there must be something wrong with me," she often despaired. Dealing with a warning from a supervisor on her highly skilled nursing job, she would find herself once again awash in tears, battling suicidal thoughts. Sitting with Julia's torturous questioning of herself, I realized how well a basic feeling of innocence protects us from overwhelming, undigestible and especially inappropriate feelings of wrongdoing. It's a defense against corruption.

I could feel this defense going on in my own heart when, at the beginning of the separation, I searched myself hourly, even minute by minute, for a story line that would reconcile my idealistic faith in our 30-year marriage with its loss. For example, when my separated husband told me that he was so worried about money he thought he might have to file for bankruptcy (which made no sense given our income), I grew hysterically convinced that he was suffering with an undiagnosed brain tumor. "All these years, did I just make you up?" I later asked him. And I knew that at some point I would want to take a long, hard look at my own contribution to our dilemma. I deliberately put that aside, however, in order to get through from one day to the next. In the beginning, I just couldn't abide the rotten feeling of corruption, either his or my own.

Then I watched in amazement as a friend of mine, a distraught member of the First Wives Club, fell in love with a married man. Mired in her own morally compromising situation, Sarah's anger softened and she began to think differently about her ex-husband's infidelity. "I had always felt that Tony had not behaved very well when he was leaving the marriage," she said ruefully, "but now behaving well doesn't seem as simple as it did before." She no longer felt secure in her own innocence. She was in a shadow. "It wasn't even a conscious decision. I just found that I had forgiven Tony. Hell, I've even forgiven Woody Allen."

If our first childlike belief is that innocent people don't deserve bad things, our second is that our suffering itself will render us good. The hard truth, I learned slowly, is that just because you hurt me, that doesn't make me the good guy.

So I've come to believe that a rigid fascination with the moral stance of innocence sets us up for prolonged suffering, for passivity, for a heartbreaking expectation that the world can be tidily divided into good people and bad people. As the rightfully innocent, we argue that someone—not us—should *pay*, as if innocence lost were wealth stolen. Often we are angry more at bystanders than we are at injurers themselves, so powerful an idea (and not necessarily wrong) is it that innocence should be protected. Of course, the bystanders then protest their innocence. Such passivity, while tempting, leaves us all stuck; no one picks up the bill. Thinking morally, are we not *all* charged with repairing and restoring our disordered universes, including the messes left by others?

OBSESSION

At times, the loss of the marriage felt hard and final, like a death. I thought I knew about death. My mother had died just weeks before my husband's sudden leaving, and the two losses were some-

times joined into one great numbing cosmic whack, while at other times they shaped themselves into two sharply contrasting experiences.

For a month, I had flown back to Texas every weekend to be with my mother. When it finally became clear that the emphysema would soon kill her, we spent her last afternoon in a strange joy, remembering all the party dresses we had designed and sewn together—kelly-green taffeta, sleeveless brown linen with a billowing white chiffon skirt, a long column of creamy white satin. At 77, my mother died too young, and I still miss her generous and spirited realism. But her dying, no less than her living, was saturated with profound meaning. On the other hand, I couldn't begin to comprehend the loss of my marriage. Nothing made sense to me.

For a good half year, my thinking flowed in two layers, a double dialogue. On one layer, I thought about my mother, my children, my clients, my friends. I talked to the car repairman, I bought movie tickets, I drove to Connecticut. But in every moment the other layer flowed along, too, a dark and grumbling creek, ice rimmed. I drove muttering to Connecticut, wondering the whole way: Had he meant *this* when he had said *that*? Should I have spoken up here, kept quiet there? Going through my own obsession, I began to appreciate its grinding mission: the effort to hold an absent and often unrepentant person accountable.

Similarly, my client Susan racked herself to understand her husband Ed's abandonment after 22 years of marriage. "Why?" she plaintively asked him in one of the few times he agreed to meet in my office. "Well," he said, "I know this sounds stupid, but remember when I asked you to wear those earrings? And you wouldn't!" Susan's mouth dropped open. Ed went on, "Then something just shut down in me." Except for insisting that he had "done nothing wrong," that's all he could say.

In the cruel poverty of her husband's account, it was Susan who was left to imagine what it was that had truly gone wrong. His failure of imagination fired hers to such intensity that she thought of nothing else for almost a year. Teaching literature at a community college, she saw in every class discussion about culture and family and gender the possible explanation for her husband's behavior.

In the absence of the perpetrator's accountability, the injured people work with the only material they've got: their minds. Indeed, it is the essence of obsession to try to handle something in the mind when one believes it cannot be resolved in the outer world. Ann's unremitting anger at her contrite husband was a vivid example of how irrelevant that "outer world" might be to a tortured heart.

Similarly, in working with people who have been sexually abused, the therapist is often aghast at how obsessive the injured person remains, not only about the original injury, but about the sort of bumps and knocks we must all endure; a telephone call not returned is equated with an incest incident. Person B holds Person A inside like a dark and foreign mass, contaminating everything.

I learned about Person A and Person B from my friend, psychologist Jill Harkaway. She had come in from Boston for a visit, and over our salads at lunch that day, I asked what she thought about the burden laid on injured people. "One person can't harm another person without it *creating* a relationship," she said. "A hurts B. A walks away. A leaves B holding the relationship." A new bond is inevitably formed, in which the combination of helplessness and injury forges a deep, strangely empathic connection with the person in power.

Perhaps it is this bonding of A to B that explains the persistence of certain kinds of suffering. As I work day in, day out, with people who are stuck in their sense of injury (as, indeed, I found myself helplessly perseverating there), I have wondered what maintained such a chronic state. After all, most people, if given a choice, would say that they would gladly lay down their suffering. But they don't. Some are caught in repetitive fantasies of outright revenge, imagining scenes of public humiliation or private torture, and their bitterness stunts their growth with the power of an addiction.

My client Phyllis spared no energy in concocting daily malicious retaliations during her divorce from a bully of a husband, delighting in leaving him waiting at the curb for poky children, enforcing restrictions on his calls to them, refusing to bend concrete-set rules, even when he had the flu. I liked Phyllis, but I was unable to help her set limits on her sadism, despite my endless appeals to the well-being of her children. I finally asked what it was, really, that would be a proper punishment for him. "Oh, I wish every day that he would die. I really do," she said.

"Would you like to kill him yourself?" I asked.

She didn't blink an eye. "I would if I could get away with it."

I pushed further. "Maybe we should take some time to imagine you causing great pain to your husband. A sort of guided fantasy." Open mouthed, clearly stunned, she looked at me with glazed eyes. "Like, you could hit him with a baseball bat." Her mouth was still open. "A gun?" Her husband had loved guns.

Phyllis swallowed and finally spoke. "No, I can't. I can't really imagine any of that. It doesn't move me." Her voice grew firmer. "That's not what I want." But she had clearly made a shift out of her ruthless desire to persecute. We sat together in wonder and some thanks, watching her hatred in its dying fall.

That persevering anger is one of the things that make those of us who are struggling with feeling victimized look so, well, unattractive. I recently spoke with Sue Johnson, a Canadian couples therapist who writes about the trauma that occurs when someone is abandoned or betrayed. "In these cases," she said, "we often don't take people where they are. There's a period—a long period—when injured people are even homicidally angry. They want to hurt someone. They're interested in retribution: 'Someone must pay! *I cannot accept that I can be hurt with impunity,*' because that means that, somehow, they don't matter." As therapists, we can't guide people toward forgiveness, if, in fact, that's what they want, without a knowledge of how people typically react in the aftermath of trauma. The ever-circling energies in obsession, swirling around the same point, are reenact-

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ments, attempts at mastery—well-known sequelae to a traumatic event.

Other injured people are caught in repetitive, fantasized scenes, not of retaliatory harm, but of rescue and reparation. It's another way of not letting go, of trying to master what is otherwise unthinkable. Fantasies of either revenge or repair at least temporarily help us manage the humiliations of great injury and loss.

For example, I called my ex-husband one day to tell him that I had forgiven him. On one level, my motivation was fairly simple: I felt less angry and thought I needed to admit that shift. On the other hand, I could have merely behaved with more warmth, and he would no doubt have gotten the message, so there was something else in my longing to speak.

It's hard to remember any of the details of the call, as it took such presence of mind that my attention had narrowed to a tiny wave band of sound. I said that I wanted to let him know that I was at last able to feel that I was doing well. Keeping to my task, I pushed ahead to say that I forgave him, but then realized in speaking that not only did my voice feel flat, but also the long, wired space between us was flat. His response was thin: "Well, ah, thanks," he said, and dropped the unwelcome gift. A friend to whom I told this story said, "What arrogance!" and accused me of asserting some kind of moral superiority. I was astounded at his reaction because superiority was not what I felt at all. The wave of emotion that carried my words, in fact, almost swamped me, was humiliation.

Indeed, I have come to realize that sometimes we can rush too quickly to forgive someone in an attempt to avoid humiliation. "Oh, no problem," a friend says when I call to apologize for not calling her sooner after her father died. Still, her tone makes me wonder whether my neglect stirred up her feeling that she doesn't count very much with me. She counts with me very much, so I try to apologize again, but that just makes her withdraw more. She wants to keep the small dignity of acting as if she's okay.

Even in that limp and mildly depressing moment of speaking to my ex-husband, I understood that this small, awkward display of forgiveness was certainly real and meaningful enough to me. It marked a kind of increasing independence in my own spirit, a shift—surviving humiliation—that was internal, not interpersonal. I wished the moment could have been shared, that A recognized the pain in B, but otherwise the price was not too bad.

Real change has other costs as well. Susan was determined to learn how to accept her loss and move forward in her life. She wanted peace and she wanted her kids to see her thriving. But she found herself in a strange predicament: if she were suddenly to find herself lightened of rage, if her suffering ended and she went merrily on with her life, what would such lightness of spirit say about her husband's abandonment?

Somehow—and here's the strangeness of the equation—she found herself caught in suffering *as if to prove that what he did was wrong.* Paradoxically and inevitably, her own thriving would be living proof that his abandonment was not such a big deal. "I start to imagine letting go of all this bitterness, and then such sadness comes up! He gets off scot-free, saying 'See, it wasn't such a terrible thing.' But I know one thing: this is a truly crazy idea—that my suffering will make him pay!" She hated her own martyrdom, even as she found herself in the art museum, eyeing the darkened old portraits of bleeding saints with a mixture of revulsion and interest.

The therapist's job at this point is to hold a delicate balance between understanding the wish for revenge or reparation and keeping clients' feet in that fiery despair a little longer, helping them manage the sickening feeling that fairness does not always rule the day.

"People can be so disappointing," I recently said to one such despairing woman, with a voice that I hoped resonated with strains of both the sympathy and the realistic resignation I had in my own been-around-the-block heart. I didn't think that that remark would ease her pain, but I hoped that it would help with the extra, crazy-making torture that we add on top of tragic losses by insisting that, because they are not deserved, someone somewhere should rescue us. Suffering is, among other things, a communication.

TRANSCENDENCE

As injured people give up obsessively replaying scenes with the person who injured them, they begin to deal with a hole they find in themselves. If they can tolerate the emptiness—so much lost, so much taken away—they have a chance to look inward, toward a self they might now experience as both spare and surprisingly spacious. Giving up the effort to be whole, unsullied, I was astounded at how I was both cracked *and* liberated by the loss of the marriage. Everything was up for grabs. What, really, did I want to eat for dinner? Left now to myself, did I want to visit a friend in Chicago? And what about my work—did I really want to sit, hour after hour, listening to more tales of cruelty and suffering? It seems I did, but not out of habit or even out of a very solid sense of myself.

Although I was in great pain, I had to admit to myself it was interesting, not knowing what was ahead. I moved through the days with a mysteriously sweet and painful awareness of what a prize, really, life is, and how little we realize that. This work, these friends, this house: all ached with new and emerging meaning. For myself, a great loss made room to grow.

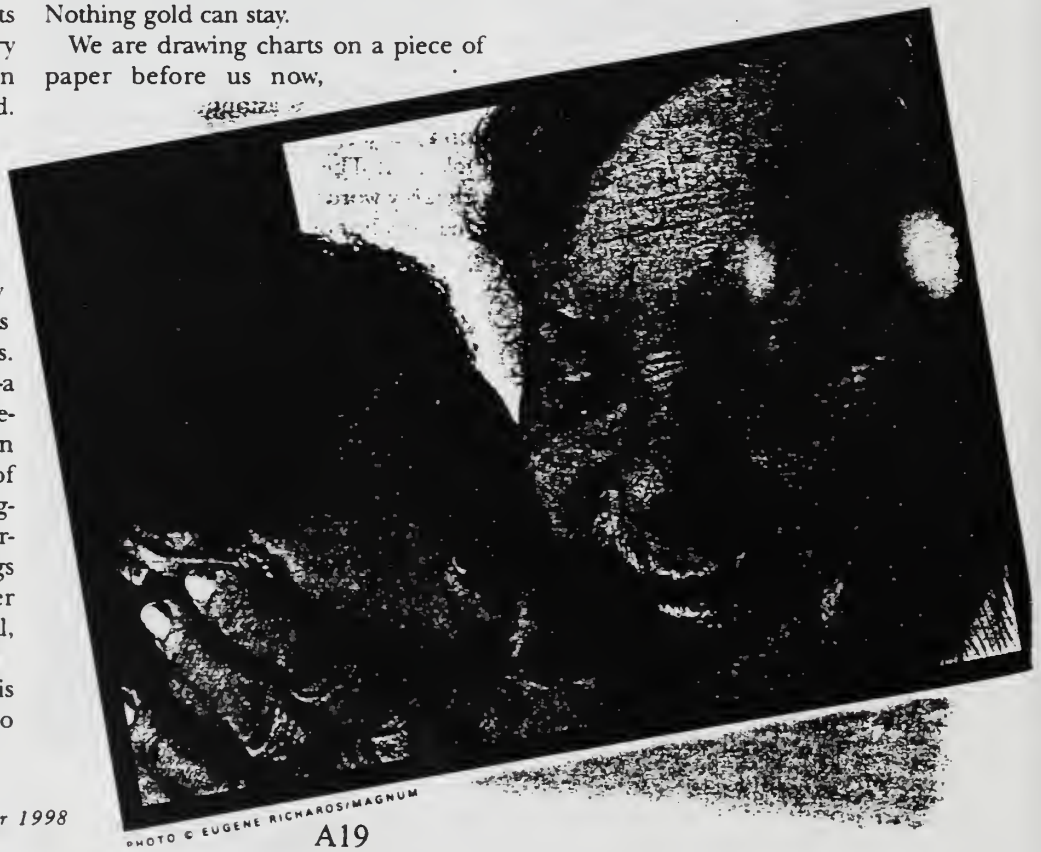
Part of what I lost was a sense of control, and this loss, I discovered, has its liberations as well. There was the story of Leslie, a friend of mine who had an affair with her best friend's husband. When the affair ended, the injured friend forgave Leslie her betrayal and was able to restore the relationships, both with Leslie and with her own husband. "People are more important than having things the way you want them," she told Leslie. I was dazzled by her capacity for forgiveness. Leslie was dazzled, too. Her friend—a blunt woman who struck me as someone who invariably knew her own mind—demonstrated two aspects of forgiveness that I have come to recognize. One was her willingness to tolerate the loss of control ("having things the way you want them"). The other was her readiness to accept the real, flawed people in her life.

Humans will, no doubt, debate this issue until the end of time: when to hold other people accountable, even punishable, for their offenses against ourselves and when to move toward acceptance and tolerance. There is nothing about genuine forgiveness that precludes holding people accountable, if we have that power, which, it should be pointed out, we don't always have. Nor does forgiveness necessarily include restoration of the perpetrator to a place in our daily life. But it seems to me we have choices about which lessons we want to learn from our own experiences. I would be highly suspicious of a marital partner, including Leslie's friend, who rushed to forgive an infidelity without wanting to understand both partners' accountability for the breach. And it would be outrageous to push a traumatized client back into a relationship with an abusive parent in the name of a generous and tolerant forgiveness. Forgiveness is not about being blind or stupid.

What then makes forgiveness different from passive acceptance? A psychoanalytic colleague, Charles Ashbok, listens to this question over lunch one day. Charles thinks it's a question first of recognizing our own complexity, how we're both good and bad ourselves. He points out that even in the most fleeting experiences of contaminating shame and guilt rests a kind of mourning, a lament: Nothing gold can stay.

We are drawing charts on a piece of paper before us now,

In contrast to justice and acceptance, forgiveness includes not only the recovery of our spirit, but the enlargement of that spirit as well—somehow, someway—to imagine the humanity of the injuring person.



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with arrows leading from one thing to another. Here's a long red arrow coming out of a broken box, which looks like a splitting heart, with MOURNING/LONGING written over it. The arrow arcs down across the page to an intriguing list headed *Defenses Against Mourning*, and including "Manic Defenses Against Loss Through Rage and Revenge" and "False Reparation." Yes! Manic Defenses! False Reparation! I could certainly recognize the defense against loss in my own explorations of forgiveness. But I love the intricacy and take comfort in sketching this tricky, human heart.

I thought of Phyllis, whose rage finally abated when I offered her a baseball bat. I would hardly call that forgiveness. But I don't think that Phyllis would have pulled back from her aggression until, imagining her own power, she began to have an inkling of her husband's vulnerability and humanity.

And Susan. Four years after her husband left, she had a sudden insight into him. I say "sudden," but, of course, it had its place prepared for it. She had broken off with a man she dated, and standing now for the first time on the leaving side of a split, she gaped at her capacity to hurt someone she cared about. And in recognizing her own blind push for a different life, she better understood Ed's blind push as well. Images spontaneously arose in her mind—instances of her neglect of Ed, his evident unhappiness, the courage that it must have taken to leave—and she felt strangely sympathetic. Perhaps the two of them were, after all, not so far apart, so disconnected. For the first time, she could imagine enjoying seeing him at their children's graduations.

I was coming to understand that the motive to forgive and the motive *never* to forgive both have something to do with intimacy and memory. It has to do with who and what we allow in our hearts, what we hunger for, how much aliveness, how much tenderness we want to risk. A knows B.

Jack and Ann returned for a session, another try after a year out of therapy. As an experiment, Ann was not allowed to fuss at Jack. "You can do that some other time," I insisted. "What I want you to do now is tell Jack what you admire most about him." They both had tight grins—edgy, canny. "Don't say anything that isn't true!" I added.

Ann stumbled so hard for words that we all laughed, and I had to stop her virtually every other sentence as she kept careening off into another well-honed attack on Jack, but slowly she came out with a list of things she truly admired: his unremitting honesty, his reliability, his sharp intelligence, his masculinity. The tenderness between the two of them became palpable. "This is really hard," Ann said, "I can barely stand how vulnerable I feel," and she smiled bashfully at Jack. Jack let out a sigh and beamed back. If forgiveness is the enlargement of ourselves to include the humanness of the other person, then in tolerating this tender intimacy, Ann was beginning to forgive Jack.

I spoke again the other day with my ex-husband. I had the feeling of listening in two directions: inward, toward my own reactivity, and outward, turning into what he was telling me about a move to the ocean, a project in Mexico. I made a place for hearing him, letting it all leap through me, as a diver might receive the cool electricity of the water, a strange gift, a blue baptism into aliveness.

To forgive, I've come to see, means, literally, to give up—to give up hatred, revenge, punishment, hard payment of a hard debt. In struggling to forgive someone, to give up fantasies of revenge, even, alas, hopes of reparation, our motive is to move our lives past bitter obsession.

Regrettably, forgiveness is not necessarily about justice. The murderer may be justly condemned, but the grieving family doesn't necessarily forgive. Nor is forgiveness an otherworldly acceptance of what must be. We all know injured people who push forward in their lives without struggling with forgiveness. Ex-partners remarry, even prosper, but can stay as bitter toward each other as if the split had happened yesterday. In contrast to justice and acceptance, forgiveness includes not only the recovery of our spirit, but the enlargement of that spirit as well—somehow, someway—to imagine the humanity of the injuring person.

And why would we want that?

In a great injury, something is broken, psychologically or spiritually. The break not only erodes our sense of living in a fair world, corrupts our experience of our own worth, fragments our control over our own lives and our emotions, but it also fundamentally damages our faith in the worthiness of others. It is that loss of the other that we absorb, and somehow transform, in forgiveness.

Driving down the street last year, I heard a radio interviewer ask a minister why there is evil in the world, why people do terrible things to one another. I pulled over to the side of the road; he was a thoughtful man and I wanted to hear his response. He said he didn't have a satisfactory answer to that question. But he thought that the fact that we suffer from others keeps us aware that we are not solitary, that, in fact, we cannot be indifferent to the conditions that make people mean enough or desperate enough to harm.

It was autumn. The car was parked under a canopy of trees and yellow leaves drifted slowly down. I put the car back in gear and in a whirl of subsiding leaves, headed toward my office, thinking of John Donne's meditation. We're part of the main, and anyone's loss diminishes us all. Strange to think that sometimes the only way we have a chance to truly experience the losses other people suffer is when, no longer able to contain their own grief or greed or rage, they cause us harm.

While injury may heighten the innocence of the injured party, forgiveness dissolves the clear distinctions between perpetrators and victims, self and other. It's an illusion to think that we can keep what is good separate and uncontaminated from what is mean and evil, that it is our birthright to live a gated life. There's no avoiding our vulnerable, mortal lives; there's no way we can stay aloft, like angels, never making the blue dive. It's an existential dilemma—something inevitable, human—living as we do with the outrageous fortune of both leaping and falling, of riding out irresistible urges both to save everything and to destroy it all. ■

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By Michael Elkin

Discovering True Forgiveness

Breaking the bonds of victimhood isn't easy

FORGIVENESS IS NOT USUALLY considered a clinical concept. One reason for this may be that it is often mistaken for denial, avoidance or the condoning of horrible behavior. Another might be that many therapists may not fully understand what forgiveness is or why it is so important. In my work, I have come to believe that forgiveness is a feature of every successful therapy, though it may not be recognized or named as such. In fact, I suspect that many difficult cases would be considerably simplified if therapists were more directly conscious of the process of forgiveness and how to facilitate it. The case that follows is an attempt to demonstrate the clinical impact of guiding a client who had a persistent feeling of being "damaged goods" to forgive the person she believed had horribly wronged her.

ILLUSTRATION BY CYNTHIA WATTS CLARK

Vickie and I began to work together after her brief psychiatric hospitalization. She had entered the hospital because she cut and burned herself after a failed attempt to reconcile with her estranged mother, Carol, on the telephone. It had been their first conversation in almost eight years.

The session below occurred after more than a year of almost weekly meetings. It was the first face-to-face encounter between mother and daughter since Vickie had been placed in a foster home at age 16. Both Vickie and I were surprised that Carol had accepted the invitation to meet. This was the first contact of any kind since the disastrous telephone conversation.

For five stormy years, Vickie and Carol had lived with Carol's boyfriend, Bob, an alcoholic and drug addict who had physically and sexually abused both of them. Vickie's physical maturation and Bob's ever-growing cocaine habit created an intolerable situation for Vickie. She repeatedly appealed to her mother, but Carol, fettered by her own alcoholism, her economic and emotional dependence on Bob and her own extensive history of sexual abuse, had been unable to set limits on Bob or to leave him.

When Vickie entered high school, she began to confide her family problems to a school counselor. This eventually set in motion a chain of events resulting in Bob's imprisonment (a lengthy one due to previous felonies). Vickie was placed in a foster home and Carol entered a residential treatment center under duress.

In spite of all this emotional turmoil, Vickie did well in the foster home, and graduated high school with good grades. She was exceptionally bright and had compulsive work habits, so she did well at jobs. But she would always manage to sabo- ►

tage herself. She was fired from one job for a petty theft and lost another when she returned from lunch drunk and made a public pass at her supervisor. She cut herself after that incident, as she did after the phone call to her mother.

Vickie's relationship with Tom, a city bus driver who attended college at night, did not go smoothly—she had a habit of getting very seductive with him, and then becoming verbally abusive when he responded. But even though Tom would become sullen and withdrawn, he kept coming around.

It was after she had been seeing Tom for about a month that Vickie made the call to her mother and then began hurting herself. Tom convinced her to go to an emergency room and to voluntarily enter the hospital. (I should point out that this case took place some time ago. Today she would have been sent home with Prozac.) After a week in the hospital, she began outpatient therapy with me.

Initially, Vickie claimed to have forgiven her mother, saying that she understood how alcoholism, her fear of Bob and dread of being alone made it impossible for her to have acted any differently. I was highly suspicious and asked about the phone call that had precipitated her hospitalization. "It went fine until I asked her if she had heard from Bob. She freaked out and said my big mouth had ruined Bob's life and hers. She's been visiting him in jail. I tried to remind her that he had raped me, but she just kept screaming until I hung up."

By the time Vickie had finished speaking, her face had flushed, her hands had clenched and her breath was shallow and rapid. I asked her whether she was angry. She started to deny it, then she laughed. "Maybe, just a little," she allowed.

The forgiveness Vickie claimed to have achieved was, of course, denial. In her experience, anger was the emotion of abusers, not victims. She also yearned for her mother—the only family she had—so she was very uncomfortable with the intensity of her negative feelings. She seemed to feel it would be safer and more seemly if all those feelings were behind her, replaced by the more "acceptable" state of forgiveness.

Unfortunately, in order to really forgive her mother, Vickie would have to first experience all the rage and malevolence she felt, because it is impossible to let go of something until you possess it. In helping Vickie create room in herself for the feelings she found unacceptable, I was guided by Milton Erickson's process of helping people notice small learnings in themselves, and then methodically building upon them.

Although Vickie had trouble with her anger at her mother, she had much less difficulty with her rage at Bob. I began to ask what she had wanted to do to Bob after he had raped her. Even with regard to this, she was constrained at first, but I offered some fantasy revenges in the most graphic language I thought she could handle. Pretty soon she was one-upping me with scenarios that could spoil the appetite of a buzzard.

Vickie had done a lot of babysitting for younger children in her old neighborhood. I asked her what she might do if she were to suspect Bob was molesting one of these children. This was an opportunity for Vickie to indulge what was turning out to be a wonderfully sadistic imagination. She needed no prompting from me to notice the contrast between her own mother-tiger response and its absence in her mother. Her first reaction was grief, quickly followed by rage.

It became clear to Vickie that her forgiveness of her mother was premature, and she was shocked at the level of rage that poured forth when her hurt was lanced. After a short time of imagining some ghastly acts of vengeance for her mother, however, she noticed that she was not having as much fun as she had when she was designing Bob's just deserts. In fact, even when she turned her imaginative attention back to Bob, the glow was off.

Soon after Vickie discovered her capacity for rage and malice, she discovered that it did not seem to produce much real satisfaction. Surprisingly, the thought of torturing Bob or her mother, if she continued the scenario in her imagination, left her feeling empty and depressed, rather than elated. They say revenge is sweet, but when Vickie put this idea to the test, at least for her, revenge proved to be rather flat and bitter.

Vickie's imagined revenge on her mother unexpectedly tapped a well of tender, longing feelings that seemed initially to disturb her as much as the rage. She was overcome with a craving to be in a family and with a deep sense of loneliness. In spite of Carol's failings, Vickie loved her deeply.

To me, forgiveness means not the overlooking of a harmful act, but the inner realization that no permanent emotional harm has resulted from it. It was with this in mind that I began to question Vickie about how the abuse and neglect had damaged her. At first she viewed the questions as a pointless exploration of the obvious, but as she began to think about it, it became clear that, although she had suffered a great deal of pain and shame in the past, she experienced her present self as reasonably intact.

The nasty games she played with Tom, her boyfriend, had given way to a relationship that was surprisingly passionate, recently even orgasmic. Her work habits, intelligence and creativity had enabled her to parlay a temp job into a management-trainee position, and she was getting very good feedback about her performance. She was acing a business course at a community college and singing in a community choir. She and Tom were discussing marriage and looking for apartments. It was at this point that she decided to ask me to invite her mother to a session.

Carol, Vickie's mother, was a heavy woman who showed surprisingly few signs of her tough life. She looked wary and irritable. Clinical experience has taught me that forgiveness is less stable than plutonium. A glance at Vickie gave me the premonition that things were not going to begin well.

Before I could act on this obser- ►

vation, Vickie got things rolling with a predictable gambit: "Heard from Bob lately?"

"Yeah," Carol answered, flushing, but defiant. "I visited him last week."

"When does he get out?"

"Next April, as if you cared."

"Are you planning to see him when he gets out?"

"I don't know. Maybe." There was a tight silence.

"Do you still blame me for talking to Mr. Ives?" (the high school counselor).

"I never blamed you," Carol said. However, she then recounted the humiliation of Bob's arrest and of her interrogation by prosecutors, who caught her in lies and threatened to prosecute her as an accomplice. She spoke about how she was forced into a drug program and of the shame of being confined with prostitutes and street women. She talked bitterly about living on welfare because Bob was in prison and of being unable to get a good job like Vickie had.

I asked Vickie how she reacted to her mother's story. She said it made her feel guilty and angry. I asked Carol if she thought Vickie should feel guilty about turning Bob in. She said that she didn't know, but she said it sullenly.

"How can you blame me for talking when you sat around with your thumb up your ass while that prick beat and raped me every day!" Vickie exploded.

"I never knew about him raping you. You should have told me, rather than go to strangers."

"Bullshit! I did tell you. Lots of times. You didn't do shit," Vickie screamed.

I asked them if this is what they thought would happen when they got together. Vickie said that it was what she was afraid would happen, but not what she wanted to happen.

"So why did you want your mother to come in?" I asked.

"I wanted her to see how well I was doing, so she would be proud of me. I wanted my mother back."

"What do you see standing between you and getting your mother back?" I asked.

"Her. She hates me for talking to Mr. Ives at the school, but I had to talk to someone. I was going nuts! I didn't even think Bob would get in trouble. I thought it was private. I didn't know that there was a law that he had to tell." Her voice was a child's.

"I don't hate you, honey. I love you. I just wish I was a better mom to you."

The two women gazed at each other through their tears. Right beneath the surface of their anger was guilt. If we fear we have harmed another, our emotional reflex is to find an injury to justify ourselves.

"What kind of relationship do you two want to build now?" I asked after a while.

Vickie spoke. "My mother is the only family I have. I want us to be close."

We both looked at Carol. She teared up. "I've missed you so much, baby." They hugged, yet despite the love being expressed, I was concerned about the persistence of the grudges, which were submerged for the moment.

"Vickie, how did you decide that it was time to invite your mother to join us?"

"When I realized that I had forgiven her."

I glanced at Carol. Her faced seemed to congeal slightly at the implication that she had done something that needed forgiving. I pressed on.

"What do you mean?"

"At the time I was at the Pennys', [the foster parents], I kept seeing her face at Bob's trial. She never once looked at me. I felt that I had lost my mom." Her voice was cracking. "I was really mad at her, too. I think I was madder at her than I was at Bob, 'cause I didn't feel bad about getting him busted, but I thought I had ruined her life."

"You were mad at her because you thought you had hurt her?" I asked.

"Yeah, I realized that in here." She said, "I also thought that she ruined my life—her and Bob. I really thought I was damaged goods, so I treated myself like shit, and I made sure everyone else knew I was shit, too.

"But when I couldn't convince you and Tom, I began to see myself differently and things began to happen differently. I didn't screw up at work when people said nice things. I began to believe that Tom might really like me. I made friends. I even joined ►

CASE STUDIES

the choir. I began to realize that my life wasn't ruined."

"Was that hard to accept?" I asked.

"Oh, yeah. Some part of me was afraid that if I was okay, then I had no right to be mad at Mom or even Bob. It wasn't until I had an orgasm with Tom that I began to get it that if I wasn't screwed up sexually anymore; then I really wasn't hurt by what Bob did. I finally realized that to stay angry, I have to see myself as damaged, and my life works a lot better when I see myself as okay. It's like if I stay mad, I have to see myself the way Bob saw me. I would rather agree with Tom about me, even though if he's right, then Bob didn't really hurt me.

"It was harder for me to forgive you than it was to forgive Bob 'cause if you didn't harm me, then I have to feel guilty for hurting you." She looked at Carol.

Carol looked stunned. "How did you hurt me?" she asked, seeming to forget the inventory she had listed only a few minutes ago. Then she laughed.

"It's really weird. A few minutes ago, I felt like you did ruin my life, but I have asked myself how am I damaged. I've spent years dreaming about getting revenge on Vickie for what she did to me, now I'm sitting here realizing what she did to me is to get me away from this bastard who was beating the shit out of me every other day. And get me sober. I feel like an asshole."

"Welcome to the club," Vickie said.

Vickie and Carol were able to build a friendship over the next several weeks. Vickie got Carol a job at her company, although Carol had some initial trouble with being outranked by her daughter. Vickie moved in with Tom and they set a wedding date.

Vickie left therapy two sessions after the one described above. She returned briefly when Bob got out of prison and Carol took up with him again. Carol, however, had accumulated too much sobriety to be able to tolerate Bob, so she left him.

The conversation with Vickie and Carol clarified the process and function of forgiveness for me. Forgiveness is not something that we decide to do—it is something that we discover

has happened. It seems to be a product of abandoning an identity as a victim and of perceiving ourselves as responsible for our life in the literal sense of the word—able to respond. Only when this occurs do we perceive blame as an unneeded luxury, well beyond our means.

CASE COMMENTARY

By Jayne Mahboubi

I agree with Michael Elkin that forgiveness means giving up a victim mentality. But I couldn't help contrasting his description of therapy with Vickie and Carol with work I do with African American clients who struggle with their experiences of being victimized by racism. My clients often come in feeling hopeless to change their situation, but are still desperate to know how to let go of past humiliations and painful experiences of racial discrimination. While Vickie was fortunate that Carol admitted she was wrong and apologized, how do clients forgive when—as in the majority of cases when a person has been harmed by racism—the perpetrators don't take responsibility for what they've done?

In my opinion, the single most important aspect of therapy with survivors of all kinds of abuse—whether the perpetrator is willing to admit culpability or not—is helping them get in touch with their anger and rage. Elkin created an emotional container for Vickie that made it safe for her to experience directly the roiling feelings she had been censoring in herself. Experiencing anger and rage are important not only as an end in themselves, but also as a valuable learning experience—a person who is emotionally in touch with his or her anger is less likely to be victimized again. Many African Americans use their anger and rage as a protection—it makes it easier for them to say no or to speak out the next time they are in danger.

Therapists have to walk a fine line between validating anger and letting clients get stuck in it. For example, if Vickie was enraged at all men because one man abused her, she would be stuck in her anger. Likewise, my clients who hate all white people, instead of being angry only at the individuals who demeaned them, are also stuck. Clearly, Elkin didn't let Vickie's anger become an end in itself, but helped her use it to empower herself.

While Elkin describes forgiveness as the knowledge that one is not irreparably damaged and can move on, forgiveness is not the only healing outcome in these kinds of cases, nor is it the only indicator that a client is ready to stop being a victim and start thriving. Some clients I have seen for years never move to forgiveness, but instead reach a state I call "resignation." This occurs when clients attempt to move toward forgiveness, but come to realize there may never be any acknowledgment or apology from the perpetrator, or any reparations made for the harm done. At this point, they work on becoming resigned to the fact that the abuse happened. They don't ignore their feelings about it or try to forget about the events. But they do ►

relinquish their active anger, achieving a sense of determination not to let the past stand in the way of their personal goals and happiness. My role as therapist is to validate their feelings that life isn't always fair, while helping them feel capable and strong enough to address injustice and abuse the next time it happens. Ultimately, what's important in therapy is preparing people to face the future rather than staying stuck in the past. ■

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To Hell and Back

TO BREAK THE CYCLE OF REVENGE, COUNTRIES MUST LOOK BEYOND THE LAW

By Jeremiah Creedon

OF ALL THE GREAT THEMES of literature and history, none is more compelling than revenge. From the ancient Greeks to the evening news, every age has been transfixed by the spectacle of people driven to exact blood for blood. The excuses for revenge are as eternal as the act itself: love, honor, religion, politics, race. Beneath those rationales lies the troubling reality that vengeance is nearly unique to our species. Chimpanzees have some ability to nurse a grudge, researchers say, but we are clearly the animal best adapted to settling the score.

People have always recognized the corrosive potential of vengeance: Left unchecked, it can destroy entire cultures. That fact has never been more vivid than it is today, in the age of CNN, when history has a photographic memory. The power of the mass media is surely one of the reasons that so many countries around the world lately have been driven to apologize for past sins. At a time when no atrocity can be forgotten and every victim lies in a shallow grave, the need for a new politics of atonement may be greater than ever.

One person who has studied these issues closely is Martha Minow, a professor at Harvard Law School. In her new book, *Between Vengeance and Forgiveness: Facing History After Genocide and Mass Violence* (Beacon, 1998), Minow examines each of the formal responses to mass atrocity, including war-crimes tribunals, truth commissions, and reparations. All are relatively new attempts to block the ancient response: a tragic cycle of revenge that can bleed a land for decades or even centuries.

Professor Martha Minow

The life of a respected legal scholar in a calm enclave of reason like Harvard may seem vastly removed from the raw edge of human experience revealed by mass atrocity. But there are connections between the damage done by war crimes and Minow's other areas of interest, as suggested by her two earlier books. Whether she is writing about family law or the legal system's treatment of minorities, Minow seems keenly aware of what law can and cannot do. Her doubt that law alone can solve all social ills can sometimes rub her colleagues the wrong way, she says, even when they share her politics. But it has also kept her mind open to new approaches to justice, both inside and outside the system.

"When you're dealing with the subtleties and complexities of human relationships, law is an extremely blunt instrument," she explains. "Law can tell people to stop doing something. It can't make people love each other; it can't make people behave differently in a day-to-day way." While she is aware that a basic respect for law may be one of the few things that people in a multicultural society—let alone the world—have in common, she's not sure that will suffice: "I worry that there's a false hope that law can solve the problem, when, at best, in many circumstances law can create a clearing, a space, where other kinds of difficult work at building human relationships can go forward."

In *Between Vengeance and Forgiveness*, Minow examines how those relationships can be mended in war-ravaged societies. As she covers the history of war crimes and their aftermath, Minow pays special attention to the ongoing drama in South Africa, where Archbishop Desmond Tutu and others oversaw the Truth and Reconciliation Commission (TRC) until the release of its final report last fall.

As a response to a mass violation of human rights, the TRC is a landmark alternative to criminal prosecution, Minow says. The key to the commission's success was a decision to grant amnesty to many perpetrators in return for truthful testimony about what really happened in the past. For the first time ever, a society had looked beyond the narrow satisfaction of punishing individuals to achieve a more critical goal. The hope is that by recovering its repressed history, the country can now move on, toward a democratic future.

"The healing process is incomplete, and certainly there's lots of struggle and unhappiness in South Africa," Minow says. "But the Truth and Reconciliation Commission stands as a remarkable milestone in the creation of an alternative concept of human rights—one that is inclusive, one that's not creating a new cycle of revenge."

Illustration by Cynthia Von Buhler

Japanese internment camp, or for the loss of loved ones in the gas chambers, is insulting," she says. Yet reparations often have a symbolic importance that dignifies them. In that sense, Minow explains, reparations can deepen the power of an apology, by showing sincerity of remorse and a desire to make things different in the future. "So in a funny way, apologies are most believable when they're accompanied by reparations, and reparations are least offensive when they really are about apology."

The domestic American justice system tends to downplay forgiveness, Minow notes. Presidents and governors occasionally grant pardons, and perpetrators may be forced to confront their victims. But compared to other cultures—Japan, for instance—atonement and forgiveness have never been key features of American law. "There's good reason to explore more ways in which our justice system can promote the possibility of apology and forgiveness, or make more room for people to do that outside the justice system," Minow says.

Which leads to the inevitable question: What about Bill?

"The president's failure to give a believable apology has made the granting of forgiveness very hard for lots of people," she answers. "It's interesting that Clinton has been the most apologetic president in many respects," she adds, noting his apologies for the Tuskegee Syphilis Experiment, his near apology for slavery, and other ceremonial gestures. "He's not alone; many other world figures right now are doing that too; there's something about this moment that makes that seem more possible. But still, that he then would be so inept about it in his own conduct is quite remarkable."

According to the polls, African Americans have shown a striking readiness to forgive Clinton nonetheless. Minow suggests that a number of factors may be at play. Many African Americans may feel that Clinton, a southerner committed to racial justice, has been the best president for them in a long time. Just as crucial, however, is the long-standing tradition of forgiveness in the African American community, an ethic born of historical experience and often embodied in spiritual beliefs.

In other words, the capacity to forgive is, if not a human invention, then at least a trait that can be fostered by our institutions. The influence of religion and culture also have been crucial in South Africa, where the modern model of psychological healing has meshed well with Christian notions of forgiveness. A third factor is an African concept, *ubuntu*, that Minow defines as "humaneness, or an inclusive sense of community valuing everyone." In this sense of justice, no one can be human until all are human, and the fragile bonds destroyed by violence are reconnected.

That any concept of humaneness can completely cure our capacity to be inhumane remains doubtful. As Minow notes, the ethnic massacres in Rwanda in 1994 were, by some accounts, driven by a similar sense of interconnectedness gone horribly awry. Stopping the masterminds of such slaughter from ever being born may lie beyond our control, but Minow does believe that the rest of us can be taught not to become their unwitting agents.

"Really terrible violence happens because people dehumanize other people," she says. "And so how do you prevent that from happening? It has to work at a cognitive level, but also at a kind of moral level, some sense that you just can't do that to other people, that it could be you who gets dehumanized."

Which harks back to Minow's conviction that law alone may not be enough to break the cycle of revenge. Like the machetes used to massacre so many in Rwanda, laws are merely tools. Whether they are used for good or ill ultimately hinges on the complicated creature who wields them.

Jeremiah Creedon is senior editor of Utne Reader.

cial apology to the survivors of a government experiment that caused 400 black men with syphilis to go untreated without their knowledge. The White House spokesperson says that "the president feels we have a moral obligation."

1997 Ireland The Christian Brothers apologize for cruelty and sexual abuse suffered by students in their schools over many years: "Children and their families have been hurt and betrayed by abusive behavior."

1997 France French Catholic bishops apologize for their complicity in the Holocaust at the site of the Drancy transit camp, from which many Jews were sent to Auschwitz.

1998 Canada The government of Canada apologizes to its aboriginal people for suppressing their languages and cultures.

1998 Japan Ryutaro Hashimoto, Japanese prime minister, expresses "deep remorse" for Japan's treatment of British POWs in WWII.

1998 Australia The Anglican Church apologizes for its participation in the policy of forcibly removing aboriginal children from their mothers, suggesting that "to aboriginal people an apology carries a weight that many white Australians have scarcely begun to understand."

1998 Rome The Vatican apologizes for its silence and inaction in defense of the Jews during WWII, but stops short of criticizing Pope Pius XII.

1998 United States President Clinton on the 1994 genocide in Rwanda: "The international community, together with nations in Africa, must bear its share of responsibility for this tragedy as well. We did not act quickly enough after the killing began. We should not have allowed the refugee camps to become safe havens for killers." In Uganda on the slave trade: "The United States has not always done the right thing by Africa. . . . European Americans received the fruits of the slave trade and we were wrong in that."

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In Minow's view, truth commissions are not better than war-crimes tribunals—a model of prosecuting war criminals that goes back to the Nuremberg and Tokyo trials following World War II. Rather, truth commissions are an alternative that in certain cases can be more suited to the situation. "That's kind of an unusual position to take," she says, "because generally people hold our war-crimes tribunals or criminal prosecutions as the gold standard, as the measure against which all other efforts to enforce human rights are to be evaluated. I'd argue that it really depends on your goals, and that the vision of human rights could be achieved in an alternative way."

Minow's interest in studying war crimes and their aftermath grew out of her work with Facing History and Ourselves, a Boston-based group that develops teaching materials about human rights violations and genocide for the country's junior high school students. She was drawn to the group for several reasons, including her interest in working with children and her Jewish upbringing, which made the Holocaust and genocide a central part of her young life.

Born in 1954, Minow became aware of politics at an early age, she says. Her father, a prominent figure in the broadcasting trade, served under President Kennedy as chairman of the Federal Communications Commission. After the family left Washington and returned to Chicago, Minow's mother introduced her to working with abused children. Both parents actively supported the civil rights movement, and Minow attended rallies with them. Seeing and hearing Martin Luther King Jr. on his visits to Chicago deeply affected her—as did watching media coverage of his murder in 1968. For a girl awakening to the violent energies unloosed in the world, TV was a window into the darker aspects of reality: assassination, racial strife, the fighting in Vietnam. This early glimpse of the extremes of human nature, beamed into the family living room, would leave its mark on her later work. As Minow has noted, growing up in the second half of the 20th century has given her and others a certain insight into the forces that shape history.

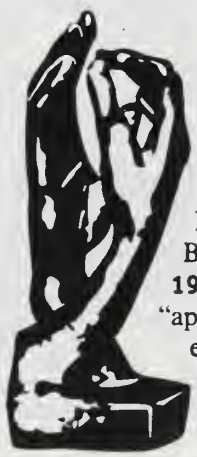
"I don't think the level of violence in this century is what makes it distinctive," she says. "But I do think the mass media coverage of violence is distinctive." One result is the growing role of world opinion in defending human rights, she says. For the first time ever, "the global use of peer pressure" has become an important moral force. With no sovereign to insist that individual countries obey this code, the only threat is "the possibility of shame, of holding out for everyone to see, here's what they did."

Also unique to the age are insights of modern psychology, including the psychology of oppression. There's a better sense of how damaging violence and abuse can be, both to individuals and to entire societies, Minow notes. The challenge now is to use this knowledge to redress the deep injury often caused by such wrongs—that is, to make the victim's need for healing an integral part of the justice process.

That may explain why the concept of forgiveness seems to be growing in importance. Victims denied the chance to forgive can suffer doubly, Minow notes. Even when they win in court cases, something crucial may be missing in a system that does not allow victims to tell their stories, demand an apology, and then forgive—if they so choose. In any case, it's critical that the choice be theirs. There's nothing sentimental about forgiveness, at least as Minow presents it. Forgiveness is a complex transaction that reasserts the power and equality of those who have been injured or abused. Minow looks to the social sciences and even studies of primate behavior in describing the innate human need for "rituals of reconnection."

Reparations, Minow says, are another important dimension of forgiveness. They also embody a paradox. "The idea that you could put a monetary value on the time spent in a

The Decade of Atonement



By Emily Mitchell
Index on Censorship

THE FASHION FOR "apologies" is growing. For offenders, they draw a line under the past. But reparations are seldom discussed.

1988 United States The Civil Liberties Act "apologizes on behalf of the people of the United States" for the internment of Japanese Americans during World War II.

1993 United States Public Law 103-150 "acknowledge[s] the 100th anniversary of the overthrow of the Kingdom of Hawaii, and offer[s] an apology to Native Hawaiians on behalf of the United States for the overthrow of the Kingdom of Hawaii."

1995 Japan In June, the Japanese government apologizes to the 200,000 "comfort women" forced into military-run brothels during WWII and starts a compensation fund as "an expression of atonement on the part of the people of Japan to these women."

1996 Germany/Czech Republic German officials apologize for the invasion of Czechoslovakia in 1938 and establish a fund for the reparation of Czech victims of Nazi abuses.

1997 United States President Bill Clinton issues an offi-

PHOTO © LARRY TOWELL/MAGNUM

by
MARY SYKES WYLIE

Secret Lives

PEDOPHILIA AND THE POSSIBILITY OF FORGIVENESS

WAYNE BOWERS GREW UP in what we used to call a "fine family"—middle-class, educated, churchgoing, affectionate. An upbeat, gregarious man, he turned to journalism after graduating from college, eventually buying and becoming the publisher-editor of a community newspaper in Kansas that was voted the best of its size in the state. He threw himself into community activities and local governmental affairs—elected president of the Chamber of Commerce, named high school sports writer of the year and coach, for 14 seasons, of a well-organized and tightly disciplined Little League club that fielded teams in state tournaments. During much of this time, about 20 years, Bowers was an out-of-control pedophile. ■ First arrested for indecent exposure during the 1960s while still in college, Bowers was directed to get counseling (charges were dropped)—a totally ineffectual therapeutic foray during which he was never directly asked why he was driven to offend. Arrested again in the early '70s and jailed for 20 months, he was convicted a third

time in 1983. This time, he spent about five years in prison, but before his incarceration, the judge allowed him to spend four months at the Johns Hopkins Hospital Sexual Disorders Clinic in Baltimore, Maryland, then directed by psychiatrist Fred Berlin and sex researcher John Money. Once in jail to carry out his sentence, he continued treatment in a new sex-offender program in the Kansas prison and then returned to the Johns Hopkins program after his release.

Bowers remembers waiting nervously in a public lobby for his first group therapy session at the Sexual Disorders Clinic in 1983. He was approached by a stranger, who asked him, "Why are you here?"

Bowers shifted in his chair and said, "I've been in prison."

"You don't say," was the genial response. "Why?"

Bowers mumbled, as quietly as possible, "I had sex with kids."

"Oh? Boys or girls?" boomed the man. "Well, boys," said Bowers.

"What were their ages?"

"Eleven, twelve, thirteen, fourteen," muttered Bowers, deeply embarrassed. The man eyed Bowers steadily for a few seconds, then said, "You'll fit." Recounting this story, Bowers says, "It was as if a 500-pound gorilla had fallen off my shoulders. I had never said that to anyone."

Some may find Bowers's story, the odyssey of a pedophile in search of a group of people who understand him as more than the sum total of his offenses, deeply jarring. Virtually everyone views the sexual abuse of children with such abhorrence—and our natural protective instinct toward children is so strong—that it is extremely difficult to create any kind of emotional demilitarized zone for considering the kind of psychological worlds offenders inhabit. Indeed, having only lately discovered our society's sorry failure to deal adequately with the problem of sexual abuse, much of the recent public discussion seeks to declare all offenders nonpersons, sending them into our own versions of domestic exile. It is not a climate that encourages us to imagine these debauchers of innocents as connected by ties of obligation, good will and even love to other people.

But what if, guided by Harry Stack Sullivan's much-quoted phrase, we attempt to view the sex offender as "more human than not" while, at the same time, never minimizing the devastation his actions may cause? What if, after careful examination, we conclude that our Manichaean attitudes and policies, intended to root out the twisted perverts in our midst, actually do *not* help in the long run, neither protecting children nor helping victims experience the kind of resolution they need?

ON A LATE SUMMER EVENING, IN THE basement of an old Baltimore townhouse, 10 men—all sex offenders—gather for a weekly group therapy session. The group includes several pedophiles, an exhibitionist, a voyeur, a couple of rapists and an incest perpetrator. These men are patients at the National Institute for the Study, Prevention and Treatment of Sexual Trauma, the clinical and research center directed my psychiatrist Fred Berlin. They suffer from "paraphilias," crudely defined as intense cravings to engage in a broad array of unusual sexual practices that range from the truly horrendous to the merely kinky—serial sex killing to foot fetishism, sadistic child sexual abuse to transvestism. Except for their sexual predilections, however, the people who engage in these acts represent every conceivable human category—racial, economic, ethnic, educational and vocational—and exhibit every imaginable combination of personality and character traits.

Virtually all of these men were mandated for treatment, and most have spent time in prison. What the offenders here do share is the same driven need, the same relentless urge to act on their aberrant sexual impulses, regardless of the consequences for themselves and their victims.

Like alcoholics and other types of addicts (with which sexual paraphiliacs have been compared), they introduce themselves by their particular paraphilia—"I'm Rick, and I'm a pedophile," "I'm Norm, I am a rapist," "I'm Jerry, I'm here because I expose myself." Getting used to saying who and what they are is part of the treatment, and no face-saving euphemisms are allowed. Some

Public outrage led to a string of laws aimed at sexual predators following the kidnap, rape and strangulation of 7-year-old Megan Kanka by Jesse Timmendequas, a paroled sex offender.

cannot bring themselves at first to spit out the detested words; Bowers remembers one man in his group admitting only that he was there because he was "oversexed." But the group itself would not allow these evasions for long. "We wouldn't let anybody off—we nailed them," says Bowers of his group experience. "Each session had to be an hour and a half of total honesty."

And honest they are about the daily temptations to offend, their fears about succumbing, their strategies for avoiding trouble, but also their rationalizations for engaging in behavior most people consider unforgivable.

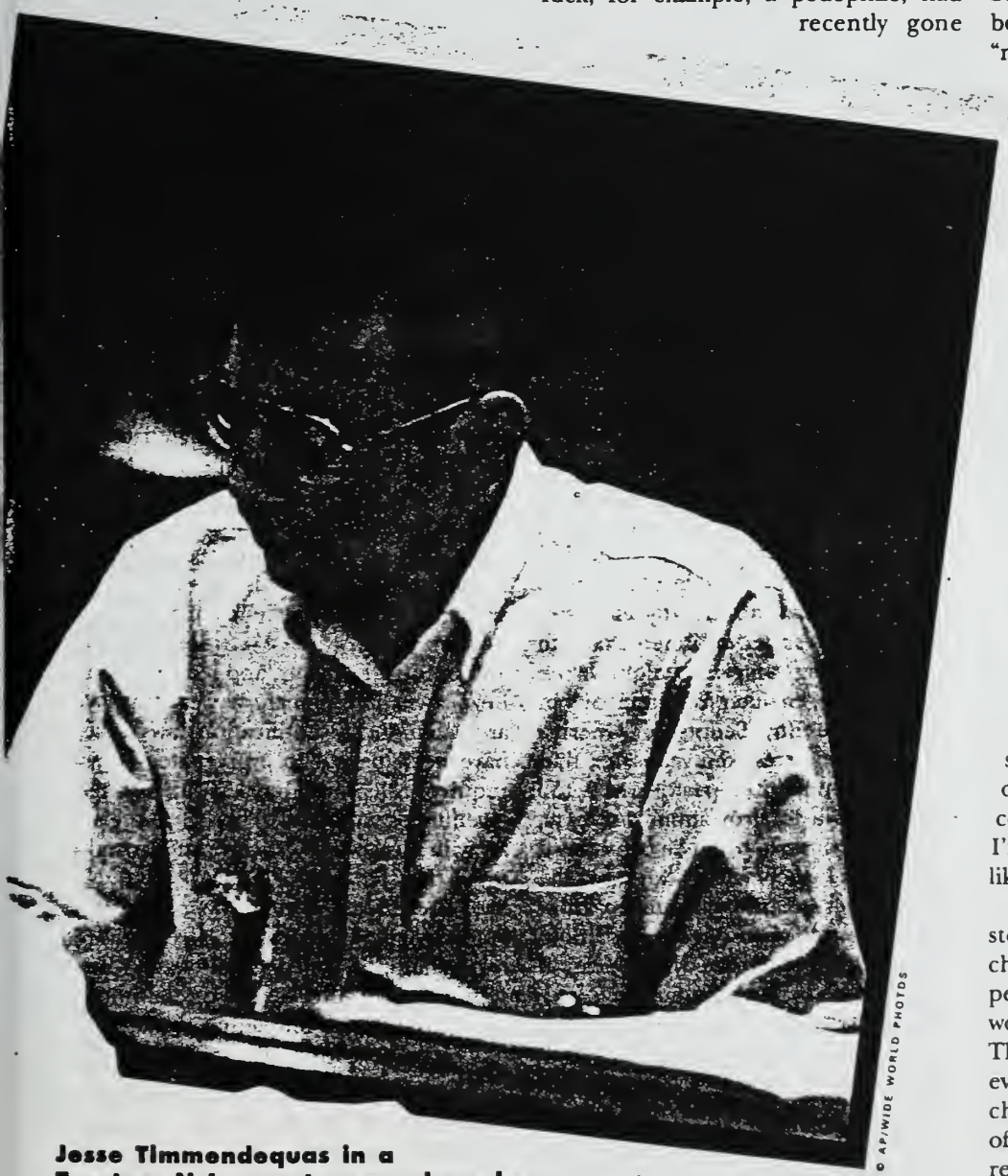
Many therapists are unimpressed by this honesty. Linda Davis, a coordinator of Survivors of Incest, a victim advocacy group in Maryland, doubts that offenders can change very much. "Oh, them. They're incurable. If perpetrators had any capacity for responsibility or empathy, they wouldn't have offended in the first place. They get locked up and *then* they are sorry. Most of these people will not admit they have done anything wrong until they are hit over the head with a brick."

In the group, the members describe their near misses or "lapses," when they put themselves into risky situations. Rick, for example, a pedophile, had recently gone to a family party with children and other adults—a nominally "safe" occasion, so he hadn't told his parole officer about breaking the rule of not associating with kids. He brings the incident to the group and they tell him point blank that it was *not* okay and there are *no* safe situations for him with children. Even with adults present, he could begin to develop a forbidden relationship with a child. The goal is not to *resist* temptation, they insist, but to prevent himself from getting anywhere *near* temptation.

Throughout the evening, certain themes emerge again and again—loneliness, struggle, self-loathing, sadness. Sex offenders have discovered that to be known is to be feared and hated by "normal" society, so many have avoided close relationships with other adults, which are considered vital insurance against reoffending. But how do you establish intimacy with someone who will hate you as soon as you mention your biggest secret? "I have no social life," says Rick. "I want to get close to someone, but if I do, I'll have to tell them my problem, and what if I can't find anybody who will accept me?"

A pall of anxiety hangs over the group, like an incubus lurking in the background. What if their vigilance fails? What if they find themselves on a runaway train of old habit, coincidence and unconscious prompting that drives them back into another offense? It is this continual, nagging fear that keeps them coming back to group sessions, even when no longer legally required to do so. "I would like to be able to drop out of the group," says Gary, who has been coming on and off for 15 years. "But I'm not ready. I will be sitting in a group like this for the rest of my life."

These are the men that we've all been sternly warned about from earliest childhood; these are the monsters, the perverts, the degenerates who make the world unsafe for women and children. The view that sex offenders stand for evil incarnate, particularly if they target children, no matter what their offense—"fondling" to serial murders—remains much the same as it was decades ago. In fact, we may be even



Jesse Timmendequas in a Trenton, N.J., courtroom, where he was sentenced to death in June 1997 for kidnapping, raping and murdering a 7-year-old girl.

more alarmed by the threat than we were back then, when it was widely assumed only the rare monster was bad enough to "do things" to children. Now, it is the unusual piece of media coverage that doesn't include the words "rising epidemic" in the same sentence with "child sex abuse," though just how epidemic it has become is still a matter of conflicting statistics. Estimates of child sex abuse prevalence taken from various studies surveyed by the U.S. Department of Health and Human Services, for example, range from 6 to 62 percent for females, 3 to 24 percent for males; the department also reported 140,000 new cases of substantiated child sex abuse in 1994. But the real incidence of child sexual abuse is believed to be much higher—child advocacy group claims range from 100,000 to 500,000 victims a year.

The traditional, easily identified stereotype of suspicious characters hanging around schoolyards seems to have transmogrified into an army of invisible aliens, who look exactly like the friendly, clean-cut guy down the street until he turns into a kid-snatching vampire at night. If the man named "Scouter of the Year" in 1986 by the Boy Scouts of America admits, when arrested a year later, that he had attempted or performed 1,100 sex acts on a total of about 242 boys, what boy scout troop can be considered safe? School teachers, day-care workers, Big Brothers, Little League coaches, priests and ministers—what field entrusted with the care and education of children has not been tainted?

What has really sent public outrage over the top over the last few years, however, resulting in the passage of a whole string of laws aimed at sexual predators, are several nightmarish cases of child abduction, rape and murder. Polly Klaas (kidnapped from her California bedroom, raped and murdered) and Megan Kanka (kidnapped, raped and strangled by a paroled sex offender) are the most publicized examples. These cases are extremely rare, and represent only a minuscule fraction of child sex abuse cases. Nonetheless, it is these cases of sexual homicide that elicit primordial horrors in the hearts of terrified parents and outraged citizens, and led to tough new laws. These include registration and community notification laws that have been passed in every state. They require released abusers (including juveniles as young as 10 or 12) to register with local police, who are authorized to let the community know where they live. There are also now laws passed or being sought in many states requiring repeat and/or violent offenders to be sentenced to life in prison without parole, or, after completing their sentences, to be confined to mental institutions until considered safe to reenter society or to be forced to undergo chemical castration. Some states are posting molesters' names on the World Wide Web, or requiring their offenses

School-teachers, day-care workers, Big Brothers, Little League coaches, priests and ministers—what field entrusted with the care and education of children has not been tainted by the suspicion of pedophilia?

to be noted on drivers' licenses or samples of their DNA collected by law enforcement authorities.

Will these laws actually increase the safety of children? Notification laws, for example, can allow parents to check up on unknown adults who are likely to come into contact with their children—tutors, coaches and the like—and they can help track repeat offenders after a crime has been committed. But they won't prevent the 90 percent of abuse perpetrated by someone the child already knows, and they won't prevent abuse by the 28 percent of released offenders who move to a new location without reregistering. And, according to the one study done on the impact of notification laws on recidivism, they won't prevent sex offenders from doing it again.

These laws are "classic examples of stupidity and blindness, . . . reactionary and fundamentally uninformed about what we know will work with sex offenders," says Robert Prentky, director of assessment at the Massachusetts Treatment Center for Sexually Dangerous Persons, a facility for sex offenders, and coauthor of *Child Sexual Molestation: Research Issues*, for the U.S. Department of Justice. "Everything we know about sex offenders tells us that community notification laws will have the least impact on the most dangerous men, the greatest impact on the least dangerous." The men most likely to abduct, violently assault and murder kids, says Prentky, don't hang around long and are usually on the lam; they don't dutifully register themselves at the local police station.

MEANWHILE, MANY "SEXUAL PREDATORS" are a lot less like the murderous sex fiends of our imaginations and a lot more like Wayne Bowers, whose own apparently normal, reasonably happy childhood seems testament to the still-mysterious causes of pedophilia. Neither sexually nor physically nor emotionally abused as a child, Bowers has spent years in both private therapy and offenders' treatment trying, without much success, to figure out exactly why he was attracted to preteen boys from his own early adolescence.

By his first year of high school, Bowers realized he was attracted to guys and worried that he might be homosexual. "But I didn't say anything about it—it was my secret. I had learned in church that people like that were very bad. I was also beginning to develop a real trigger temper: Something seemed to be building up inside me, but as far as people knew, I was okay." By his freshman year in college, however, he clearly was not okay. Separated from his family for the first time and lonely, feeling intolerably pressured by his fraternity to date and socialize with girls, he began doing poorly in his classes. What really drove him "over the top" and into molesting, though, were not only unmentionable sexual urges, but the unbearable tension of being two different people at the same time—one entirely false and the other someone he couldn't stand.

In a pattern that would become his modus operandi, he began to go cruising—driving around seeking boys, particularly those who fit a certain stereotype. When he found a group of boys, he would stop his car, draw them into conversation, which he increasingly sexualized—eventually using pornography he brought along as one of the enticements—until he had persuaded them to engage first in mutual exposure and masturbation, then later, oral sex. "I might ask for a direction, get the conversation started, turn the topic to sex—maybe one of the boys would become curious and interested, maybe even get an erection." Bowers said he would offer to show the boys "his," if they would show him "theirs," then suggest how good it felt to touch it, to rub it and so on. Later, Bowers made friends with kids through his work with the Little League, took them to baseball games—with the full consent of their parents—and had them over to his apartment.

If Bowers's explanation of his own condition fails to satisfy—it seems so feeble—nobody else, not even researchers who spend their professional lives studying the problem, can do much better. "Frankly, there hasn't been much progress in the last 10 or 20 years in understanding the etiology of child molestation, and part of the reason is that it is a multifaceted, heterogeneous group of behaviors, with many subcategories," says Robert Prentky.

"There is no such thing as a [single] profile of a pedophile or child molester, which means that there are most likely different pathways, different antecedents for the behavior, as well as different subtypes. It is also conceivable that biological factors may be more important for one or two types than for others."

For years, because 50 to 80 percent of molesters report being themselves victims of child abuse, there was support for what was called the "recapitulation hypothesis," which maintained with inspired simplicity that an abused child will grow up to do what was done to him or her. Says Prentky, besides flying in the face of the well-established fact that the vast majority of abused children do *not* become abusers themselves, the theory has so far proven robust only in the presence of one or more other factors—the age of the child when abused; the severity and duration of the abuse; the incidence of nonsexual abuse or neglect in the child's life; impulsive and antisocial personality characteristics; lack of social competence and self-esteem, and on and on. This yields the general, if not exactly stunning, conclusion that mistreated and unhappy children are probably more likely than otherwise to mistreat other children when they grow up.

According to the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders*, Bowers suffers from "same-sex pedophilia, exclusive type"—he is sexually attracted primarily to prepubescent boys. Unlike members of groups advocating for the acceptance and legalization of sex with children, Bowers's pedophilia is *dystonic*—he is not, nor was he ever, happy about his sexual obsession.

Pedophilia of this kind is a psychiatric condition, argues Fred Berlin, probably rooted in biology. Studies have implicated elevated sex hormone levels (including, as for Bowers, elevated testosterone), chromosomal and neurological anomalies, and excessive sensitivity to sex-dependent endorphin release (which may account for the addictive quality of many paraphilias). Pedophilia of this sort is *not* a "choice," insists Berlin, nor is it by itself a sign of low morals, lack of character, social incompetence, intellectual deficits or drug or alcohol abuse—though these personality and behavioral traits have enormous bearing on the motivation and capacity for successful treatment.

Berlin argues strenuously that pedophiles of this sort are not necessarily any different, any worse, any better, any more or less moral than the rest of us, except for their sexual proclivities. It is the *object* of their desire that primarily defines their abnormality. For someone like Bowers, says Berlin, pedophilia "is a very pure form of a sexual disorder, simply an issue of his being attracted to boys. In all other ways, he is responsible, conscientious, intelligent. A diagnosis of pedophilia," he continues, "no more than a 'diagnosis' of heterosexuality, tells us nothing about temperament, character or personality. The primary problem for these people is that they are attracted to kids, and because of the driven, addictive-like quality of that compulsion, they may have trouble avoiding temptation."

Berlin can sound quite testy in responding to what he considers the unwarranted demonization of men who suffer from a psychiatric condition they did not choose and cannot help. "I think it is wrong for adults to have sex with kids, and I am not excusing or condoning this behavior" he says. "At the same time, these people don't *decide* when they are young that they want to be attracted to kids; like the rest of us, they *discover* their sexual orientation. They are accused of choosing pedophilia, when in fact they are sadly and tragically afflicted with it." Prentky seems to agree: "If there is any[illegible]ng that distinguishes these people [illegible] the rest of us, I would say they are tortured souls."

While not all experts on sex offenders share Berlin and Prentky's concern with the *perpetrator's* pain, almost all agree that many pedophiles appear to have a gift bordering on genius for understanding and attracting children. Many molesters make use of a child's natural curiosity, emerging sexuality, desire to please adults and unsuspicious openness. They also move in to fill the void left in a child's life by overworked or neglectful parents. "With so many single-parent families, there are a lot of latchkey children out there, needy kids

Psychiatrist Fred Berlin argues that, except for their sexual proclivities, pedophiles are not necessarily any different, any worse, any better, any more or less moral than the rest of us; it is the object *of their desire that primarily defines their abnormality.*

who have a lot of time by themselves," says Bowers. Pedophiles take such kids, as Bowers did, to baseball games, or camping, bowling, hiking; they spend "quality time" listening and talking to them. "A lot of adults don't understand kids, ignore them, push them away. Kids like to be pleased, but most adults don't take the time to please them," says Rick, who was a young teacher before his arrest. "Maybe because we are sexually attracted to children, we have an extra sense about what they like and need, and we really want to do nothing *but* please them. There are hundreds of kids—very few of whom I molested—who thought I was their best friend."

Hard as it may be for many people to imagine the pedophile's day-to-day life (or even want to try), many such men build their personal and professional lives around children. They spend whatever personal time they have looking for children, finding opportunities to be where children are; they often feel freer and more comfortable with children than with adults. Bruce, another recovering pedophile—once a college dean until jailed for sex offenses—says that he could "walk into a room with 100 people, 5 of whom were children, and within 10 minutes those kids would be congregated around me." These pied pipers have the knack of being children *and* adults at the same time, which most kids find irresistible, says Becky Palmer, a therapist with the Center for Contextual Therapy in Oak Park, Illinois. "Kids are totally intrigued by adults who know how to be childlike, who can talk like a kid and know what kids want."

Of course, a gift for connecting with children does not necessarily hide darker motives, but committed molesters have a driven need that overwhelms an often genuine affection for children, just as it tends to define the kind of child they seek. Pedophiles have an unerring radar for lonely, needy kids yearning for attention and connection—perhaps younger versions of themselves. "[In a group of children,] we can know within 10 minutes which child will be receptive, which won't. There were certain kids I wouldn't dare try anything with, while others were begging for somebody to care about them," says Bruce. And, like the most sophisticated of seducers, they know how to bide their time. In a tone mixing contrition with detachment, Bruce says, "I never rushed into anything—some kids I would run with for several months before I would turn the conversation to sexual matters, sometimes a couple of years. By that time, they were so emotionally attached to me, I could draw them in."

"Grooming" is the official (and implicitly pejorative) designation for what molesters—both exclusive pedophiles and many incest perpetrators—do to attract kids, suggesting a cynical, cold-hearted and well-planned campaign of manipulation, bribery, deception and seduction of a child, and (if the child is not the offender's own son or daughter) of the child's gullible parents or caretakers, as well. Fred Berlin argues that grooming is no different from what any of us do to draw in the objects of our desire—only the pedophile's longings are aimed at the wrong objects. In other words, agrees Prentky, "There are pedophiles who fall in love, too, just the way other people do," and are just as anxious to get the beloved to love them back as the rest of us.

Even incestuous parents groom children, whom they claim to love unselfishly, for their own sexual use. Palmer points out that parents have a jump on the grooming process; kids are taught to obey their parents, and children can hardly be expected to make fine discriminations between "good touch" and "bad touch" when it's been coming from daddy for years, nor are they less susceptible to bribes in the form of special treats and privileges than the kid being pursued by his Little League coach.

Many offenders—pedophiles, rapists and incest perpetrators alike—live double lives, even to themselves, exhibiting in full the amazing human capacity to fool themselves and everybody else into thinking wrong is right or at least not so *very* wrong. Any therapist already knows the long litany of self-deceptions that abusers typically use when forced against the wall—"He/she wanted it, too." "I would have stopped immediately, if he/she had told me to." "I was really showing him/her love." Bruce says that the fathers of kids he abused often were physically absent or emotionally aloof; "I told myself I was filling a need the kids had for affection. I was aiding the family, doing things the dad wasn't there to do—it certainly wasn't abuse."

The very day that Bruce was arraigned for molesting children, he saw a local newspaper with the headline, "College Dean Abuses Children," and he remembers thinking at the time, "How awful—somebody in that position out there abusing kids. At least I'm not doing that!" Then he picked up the paper and saw that the story was about him. He ran around the neighborhood, picking up papers so the people he knew wouldn't see. " 'That's not me,' I thought. 'I *care* for kids.' In fact, the word 'molester' still shakes me."

There is an odd, almost hallucinatory quality about these stories, as if pedophiles inhabit a shadowy world in which nothing is ever what it seems, true motives are always concealed in layers of duplicity, the benign self presented to the world is always a masquerade. After the discovery of the molesting, many children must wonder for years after the event if every act of friendship was a sham, every word of affection a lie, every shared good time a betrayal—and in some sense the answer would have to be yes. "I was very nice to kids," says Dan, another ex-molester "I felt affection for the kids, I had warm feelings about them. But it wasn't love. Even though I might know the child, when I was acting out, that boy wasn't the person I was with; it was as if my hormones had taken over and I didn't think, I acted."

Dan thinks he really loved a boy only one time—a 12-year-old he baby-sat, took camping, engaged in long conversations. One night—they were out camping—the boy started to ask him about sex. It was the perfect occasion, "with this beautiful child primed and ready to go, who would do anything I wanted," says Dan. "But, I couldn't do it because I loved that kid. I loved him, and because I loved him, I could not cross that boundary with him." In fact, perhaps more often than is recognized, pedophiles choose to admit to accusations of abuse when fighting the charge

would mean dragging children they have cared about through public courtroom battles. "When I got caught, I denied it, at first, because I was scared I'd lose everything," says Rick. He changed his mind when he realized what a trial might cost the child he had abused. "I loved this boy too much to put him on the stand and make him out to be a liar. I didn't want him to feel guilty for what we did."

ALTHOUGH THEIR CRIME IS AGAINST children, traditionally, incest perpetrators have not been regarded as "true pedophiles"—they usually prefer sex with other adults and are often married. This is true in spite of the fact that as many as two-thirds of incest offenders also molest children outside the home, sometimes many children. Like pedophiles, they are a largely unclassifiable, heterogeneous lot, says Prentky. They engage in a wide variety of sexual behaviors with children, ranging from caressing to nonviolent sexual touching to violent and sadistic rape. If incest perpetrators are often seen as somehow different, and less malign, than pedophiles, it may be because most people find it easier to project depravity onto the emblematic evil-intentioned stranger than to think that good old gramps might be doing something just as bad. Besides, if evil seems to lie as much in premeditation as in the crime itself, chronic pedophiles seem worse because somehow more *professional* about their pursuits than opportunistic, amateur incest perps.

The single most frequent explanation used by incest offenders when finally forced to admit they did do *something* is some version of "I don't know why or how it happened, it just sort of did." Many incest perpetrators apparently sincerely believe that they have somehow been caught unawares by events beyond their control, as if they were innocent bystanders witnessing a terrible, inexplicable accident. Douglas Pryor, who interviewed 27 child sex offenders in great depth for his book, *Unspeakable Acts: Why Men Sexually Abuse Children*, writes that many of his respondents were indeed surprised to find themselves "unexpectedly . . . in the midst of an erotic situation [with a child], experiencing feelings of sexual interest, desire, curiosity and the like." Frequently, offenders were "caught off guard," by "an unanticipated erotic shift" with children they had not before consciously eroticized, if suddenly struck by an amazing new revelation. A father catches sight of his 8-year-old daughter's buttocks and is suddenly aroused, or develops an erection when his little boy sits in his lap or finds a backrub he is giving a child turning into a caress. Undoubtedly, the discovery of a child's sensuous beauty and potential sexual nature has jolted many a parent, who draws sharply back and relentlessly purges this dangerous new idea from conscious thought. Offenders, on the other hand, don't renounce the momentary feeling, but instead give in to the simple inertia of an opportunity presented, as if drifting along in a daze with a current they haven't the will to resist.

George, a plumber, began to abuse his 7-year-old stepdaughter after he was laid off, and describes the experience almost as a kind of demonic possession. In the months preceding the molestation, George had been demoralized by his inability to find a new job, feeling guilty that his wife had to work a double shift to make ends meet. "I felt weaker and weaker inside myself. I was sitting home and just falling apart, losing control, as if I had no purpose in life. I kept thinking, 'I'm the male, I'm supposed to be supporting the family, and I'm not.'" After George's wife went to work in the evening, and the younger sister had gone to bed, the 7-year-old used to cuddle up beside him to watch TV—she was the one closest to him, who had first asked permission to call him "Daddy" and frequently hugged and kissed him, "for no reason," he remembers. One night, as she nestled against him, "I just . . . fondled her," he says now, as if still having trouble getting the words out. "There was no resistance; she just kept snuggling up to me and letting me proceed with what I was doing at the time."

Such a small act, it might seem, compared to the outrages of murder, torture and rape that are so regularly laid before us on the nightly news. And yet, for the offender (not to mention the victim), those fumbling, silent, unacknowledged moments can shift the gravitational field of the entire universe. Formerly ground-

Is prison the best place for the offender? Wayne Bowers says no. "But maybe it's the best we've got right now. There needs to be some place where offenders can spend time away from their normal environment. But prison is pointless unless therapy is involved as well."

Former pedophile Wayne Bowers (second from left) talking with Russian students in 1991 at the CURE offices, an organization devoted to rehabilitating sex offenders.

ed in a solid assurance of his own rectitude and the safe predictabilities of ordinary life, the offender is now cast adrift, free-floating in a terrifying void of fear, guilt, shame, dread and obsession. After George first abused his stepdaughter, he found his world becoming a strange planet, and himself an alien in his own eyes. He hated what he had done, but kept on doing it without considering the enduring scars his daughter might carry for the rest of her life. "After it was over [the first time, every time], I felt really bad inside. I would tell myself, 'I have to stop. . . . This is wrong. . . . It's not going to happen again. . . . It *can't* happen again.' And the next time my wife was working late, it happened again, and I would say, I can't believe I just did it *again*."

Even the guilt and shame—the "hangover," as psychiatrist Anna Salter calls this postmortem remorse—have their place in the repetitious, endlessly revolving cycle of offending. The transitory feelings of remorse and the solemn vow, "never again," help offenders move beyond the unpleasant emotions of guilt and shame following the abuse and get back on the track of offending. Once guilt is more or less quashed and the fear of being caught diminishes for a time, a "deviant arousal pattern" reemerges—an upsurge in sexual fantasies of offending—perhaps fueled by anxiety, depression and anger (possibly the aftermath of unresolved sexual abuse in the offender's own past). Then the abuser begins making preparations (often unacknowledged) for the next incident.

"You find yourself setting a stage, following the same pattern over and over, so that you will get to where the molestation can take place," says George. Even though not admitting it to himself at the time, George says there was nothing "accidental" about his abuse of his stepdaughter. "When I molested, I knew exactly what I was going to do." There was a ritualistic, predictable quality to his thinking and his acts, from the feeling of nervous, excited anticipation when he left his job on nights when his wife worked late, to his preparations—shower, put on loose clothing, close blinds, put younger child to bed, turn on TV and wait for his stepdaughter to sit next to him. After he had abused her, he would let her sit with him on the couch for a while, tell her he loved her, send her to bed and then berate himself again for what he had just done.

Would he have stopped if he hadn't been found out? Why *didn't* he just stop? How could such an apparently decent and hard-working man, married to a

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Should All Be FORGIVEN?

Giving up that grudge could be good for your health. Researchers are pioneering a science of redemption based on an old form of grace

By DAVID VAN BIEMA

ONE YEAR AGO, ON MARCH 24, Mitchell Wright was plunged into anger and despair. On that day, two boys, Mitchell Johnson, 13, and Andrew Golden, 11, played sniper on their middle school campus in Jonesboro, Ark. They murdered four of their schoolmates with 22 shots. They also killed a teacher, Shannon Wright, 32, Mitchell Wright's wife. Says he: "The ballistics report shows the Johnson boy fired five shots and had five direct hits. He hit one person in the head, he hit my wife in the chest and the knee and two girls in the knee area." The shooter, Wright recalls, stood up in court and said that he was sorry, that he was not trying to kill anyone, that he and his friend were shooting over the heads of the teachers and students they had tricked into assembling outside, that it was all just to scare them. The anger rises in Wright's voice. "I don't buy that."

But buy it or not, Wright knew that he must fight against being consumed by rage. He began on the very Sunday after the horror, asking his fellow congregants in church for support. The stakes, he realized, were high. First, there was his three-year-old son Zane. "When my wife was dying, she said, 'I love you, and take care of Zane.' Well, if I lose it, then I can't take care of him." And then there was the matter of h: immortal soul. "If you let the hate and anger build in you, that's a very strong sin," he says softly. "I need to be able to totally forgive." And what does that entail? "To me, forgiveness would be if when these boys get out, I can see them on the street or in a Wal-Mart and not want to ..." His voice trails off. He concedes, "I am not at that point yet."

America can be a very unforgiving place. It is not that we aren't taught to forgive. This Sunday, on Easter, millions of Christians will celebrate the embodiment of divine forgiveness, the risen Lord. The parable of the pardoning of the prodigal son is recapitulated as often on daytime soaps as in Sunday sermons. No, the problem with forgiveness has been that of all acknowledged good acts, it is the one we are most suspicious of. "To err is human, to forgive, supine," punned S.J. Perelman. In a country where the death penalty has been a proven vote getter in recent years, forgiveness is often seen as effete and irresponsible. Sometimes it even seems to condone the offense, as noted centuries ago by Jewish sages who declared, "He that is merciful to the cruel will eventually be cruel to the innocent." Nothing lately has shown the cheap side of forgiveness like Bill Clinton's calculated plays for public pardon, culminating in a dizzying switcheroo after the Senate impeachment vote. Asked by Sam Donaldson if he could "forgive and forget," Clinton answered earnestly, "I believe any person who asks for forgiveness has to be prepared to give it," a response that seemed almost as disingenuous as it was perfectly crafted. Of what value a forgiveness that is so easily manipulated for political gain?

And yet despite every indignity and scoff, forgiveness does not just endure but thrives. As Mitchell Wright instinctively realized, there is not only a religious impetus to forgive but also therapeutic, social and practical reasons to do so. This applies to victims of crimes as well as to those who must deal with the slings and arrows of more common misfortunes—unfaithfulness, betrayal, ungratefulness and mere insult. In the past two years, scientists and sociologists have begun to extract forgiveness and the act of forgiving from the con-

A Father's Nightmare

WHO Mitchell Wright

WHERE Jonesboro, Ark.

OFFENSE Two boys shot their classmates and Wright's wife in a horror that shocked America

THE STRUGGLE "My son's feelings toward those two will be what he gets from me. If all he hears is hate and anger, that's what he'll get. I don't want him to grow up with that"

ANDRE LAMBERTSON—SABA FOR TIME

STEVE LISS FOR TIME

fines of the confessional, transforming it into the subject of quantifiable research. In one case, they have even systemized it as a 20-part "intervention" that they claim can be used to treat a number of anger-related ills in a totally secular context. In short, to forgive is no longer just divine.

"The field is just exploding," says Virginia psychologist Everett Worthington, director of the Templeton Foundation Campaign for Forgiveness Research. He should know. His organization, set up by mutual-fund magus Sir John Templeton, has distributed $5 million to scientists studying, among other things, forgiveness among chimpanzees and its physiological effects on the pulse and the sweat glands of humans. A number of psychotherapists are testifying that there is nothing like it for dissipating anger, mending marriages and banishing depression. Just a few years ago, says Robert Enright, a psychology professor at the University of Wisconsin and a pioneer in the scientific study of forgiveness, most secularly inclined intellectuals "trashed it; they said, 'Only wimps forgive.'" But now, Enright says, "psychiatrists, M.D.s, scientists, lawyers, ministers and social workers can all be on the same page. We are really on a roll."

Step into a forgiveness laboratory partly funded by a $75,000 Templeton grant. At Hope College in Holland, Mich., Charlotte van Oyen Witvliet puts electrodes on a young volunteer. In a moment

Forgiving the Dead

WHO Delilah Bell

WHERE Madison, Wis.

OFFENSE Bell's fiancé's drug- and alcohol-related death: "He promised to be there for the kids, and he left me"

THE STRUGGLE Can forgiveness alleviate her recurring grief and rage?

he will think about a hurt that has been done him and then "actively rehearse" it for 16 seconds. At the sound of a tone, he will escalate his thoughts to "nursing a grudge" and making the offender feel horrible. Another beep will cue him to shift gears and "empathize with the offender." Finally, he will imagine ways to "wish that person well." Throughout the two-hour session, the four responses occur in different sequences, and Witvliet, a professor of psychology, will measure his heart rate, blood pressure, sweat and muscle tension.

So far, she has studied 70 subjects, half of them men, half women. Witvliet finds "robust" physiological differences between nonforgiving and forgiving states. Subjects' cardiovascular systems inevitably labor when they remember the person who hurt them. But stress is "significantly greater" when they consider revenge rather than forgiveness. Witvliet suggests that we may be drawn to hold grudges "because that makes us feel like we are more in control and we are less sad." But interviews with her subjects indicate that they felt in even greater control when they tried to empathize with their offenders and enjoyed the greatest sense of power, well-being and resolution when they managed to grant forgiveness. "If you are willing to exert the effort it takes to be forgiving, there are benefits both emotionally and physically," she concludes.

While Witvliet labors to show the physiological benefits of forgiveness, Emory University primatologist Frans De Waal is busy extending its evolutionary pedigree. A study at his Living Links Center suggests that the Christian church's teaching on reconciliation may be viewed as the refinement of mechanisms reaching back not some 2,000 years but 25 million. "Instead of looking at conflict resolution as uniquely ours," he says, "we are showing that it exists in many cooperative species," particularly chimpanzees. De Waal's work focuses on the "social memories" of primates, and he says, "We have full confidence that they have memories of fights, hold grudges—and make up when necessary." While such behavior is not synonymous with forgiveness, says De Waal "it's hard to imagine it's not related."

Evolutionary psychologist David Buss, a professor at the University of Texas in Austin, has pondered the sociobiological logic of forgiveness and concluded that at least in the realm of mating, men and

It is the way I honor Catherine. To murder someone in

women may be programmed to employ it differently. Males, he suggests, are less likely to forgive a fling because if the woman becomes pregnant, "a man doesn't want to be investing resources in other men's children." In contrast, a woman may be more forgiving of a man's one-time infidelity (assuming that he has already given her a child) but less forgiving of a long-term diversion of material or emotional resources to another woman or a second family. "From an evolutionary perspective," says Buss, "part of the reason a woman marries is to secure all the resources of a man for herself and her children.

AS INTRIGUING AS SUCH MUSINGS are, theories are made flesh outside of laboratories. A persuasive anecdotal demonstration is occurring in a spotless apartment on the struggling South Side of Madison, Wis., where a graduate student named Paul Cardis is revisiting a former insurance processor named Delilah Bell. Five years ago, Bell's fiancé died of drug- and alcohol-related pneumonia, leaving her to raise their four children alone. To Bell, his death was worse than needless. It was a betrayal, and alternating bouts of anger and despair reduced her to a state close to paralysis. "I would talk to my mother about it," she says. "And she would say, 'Just let it go.' I'd say, 'How can you say that?'"

Then in 1997 Bell became part of a research project conducted by Cardis under the supervision of Enright, the forgiveness trailblazer. In eight sessions over two months, they explored a radically new approach for her condition. Today, on a follow-up visit, Cardis asks how things are going. "Pretty good," Bell replies. "The other day Michael [her 14-year-old] skipped school. He didn't walk in the door until 20 minutes to 8 that night." "Did you get upset?" asks Cardis. "I did, but I tried not to." "Did you forgive him, or are you still working on it?" "Still working on it." "That's appropriate. It's a process," Cardis says. He pulls out a set of flash cards bearing positive legends such as "Choose to forgive rather than getting even." The flash cards are familiar to Bell from last year—as were forgiveness homework assignments and forgiveness refrigerator magnets and lessons from Cardis and Enright's 23-page "Strengthening Families" instruction manual. Bell points to the card headed "See with new eyes—Take another look at the one who hurt you." "I'm trying to understand Mikey," she says, "but if I stay calm, I don't want him to think I condone what he did. I told him that to keep his job, he has to go to school." Cardis nods. "If you say you forgive him," he says, "it doesn't mean that you are letting him do whatever he wants. Forgiveness is not about forgetting the wrong." He smiles. "But deciding to forgive is a pivotal point."

The change in Bell is palpable. Where once she was silent and confused, she is direct and focused. This is all the more remarkable since, as she calmly informs Cardis, last October she underwent surgery for breast cancer. In the days before her forgiveness sessions, such a setback would have sent her into a vortex of helpless rage, and she admits, "At first I wanted to blame someone." That passed, however. The cancer has apparently not spread, and she values her new composure. "I can buy another breast," she explains. "I can't buy another life."

Bell, a paid research subject, signed up for Enright's project with no expectation of a breakthrough. But citing a similar study with incest survivors, Enright says, "People who came to us with moderate psychological depression—and that is a lot of pain—all ended up being not clinically depressed and retained that over 14 months." He and his students have also applied his forgiveness "intervention" to elderly parents angry at distant children and men hurt by the abortion decision of a partner. His latest project is with sex offenders in a Madison mental-health facility. Enright feels that by helping them forgive the abusers in their own past, he may awaken empathy for their victims and decrease their recidivism.

Forgiveness has even wider social applications. An unusual coalition of liberal lawyers and religious thinkers has pioneered something called the restorative justice movement, whose favored instrument is conferences between crime victims and jailed perpetrators. There are now more than 300 such programs in prisons countrywide, including a $1 million religion-based juvenile-justice initiative in Florida.

While restorative justice has roots in Christianity, its payoff is political and psychological. The conferences give victims the chance to confront criminals with the heartbreak they caused. The meeting's end goals, however, are rehabilitation and social engineering: they rehearse the prospect of a whole community once the

MARK RICHARDS FOR TIME

COURTESY ABA GAYLE (2)

Reconsidering A Death Wish

WHO Aba Gayle

WHERE Santa Rosa, Calif.

OFFENSE Douglas Mickey stabbed Gayle's 19-year-old daughter Catherine Blount, above left, to death in 1980

THE STRUGGLE Gale planned to watch Mickey's execution. But she began to doubt his death would make everything O.K. After long thought, she would meet him, lower near left

her name and to say we are doing it for her is horrible.

prisoner is released back into society. Forgiveness is not a conference "agenda item," says Bruce Kittle, a Wisconsin pastor and clinical professor who consults on the state's restorative justice programs, but "we talk about it with victims beforehand. Particularly in violent cases, it sometimes has a more direct role." Says Walter Dickey, a former head of the Wisconsin department of correction: "What you end up with is a lot of apologies by offenders." And about 85% of the time, he estimates, these are followed by a two-part victim response: "a flat-out statement that what you did to me was wrong—and then a willingness to forgive and let it go."

THE KEYS TO FORGIVENESS

Empathy for the Offender

Robert Enright of the University of Wisconsin suggests thinking about these questions to help "the injured person view the offender as a vulnerable human being":

- What was it like for the person as he or she was growing up? Did the offender come from a home in which there was conflict or even abuse?
- What was happening in the person's life at the time he or she hurt you?
- Can you see the person as having worth simply by being a member of the human community?

Applying Forgiveness

While doing so, it is important to remember these distinctions:

- Forgiveness is not legal pardon.
- Forgiveness is not reconciliation. While it takes only one person to forgive, it takes two to reconcile. And in some cases the best course is never to see the offender again.
- Forgiveness is seldom simple, linear, fast or even necessarily complete. In fact, anger can often remain after forgiveness.
- You will never truly forgive if you haven't honestly acknowledged how wrong the person was to hurt you.

Long before restorative justice gathered steam, Aba Gayle, 65, learned to forgive and to let go. Gayle says she knows all about "the big lie"—the promise that prosecutors make to relatives of murder victims that "everything will be O.K." once a murderer is caught, tried, convicted, sentenced to death and executed. In 1980 her daughter Catherine, 19, and a male friend were stabbed to death on a pear farm near Sacramento, Calif. Virtually disabled by what she called a kind of temporary insanity, Gayle attended the sentencing of Douglas Mickey as he received the death penalty for the killings. She left the proceedings "horrified" that such a sentence could be imposed so matter-of-factly. Yet when Mickey's execution date was set, she asked for a seat as a witness, hoping to be able to see him pay for her daughter's death.

Then one night in 1992, Gayle wrote her daughter's killer a letter. "It just flowed," she says. She told him she forgave him and was willing to visit him. "The instant the letter was in the mailbox, all the anger, all the rage, all the lust for revenge disappeared," she says.

And Mickey wrote back. He told her that what he had done was an "unspeakable burden" to his soul. He said that if he could undo the night he killed Catherine and her friend, he would gladly give his life. Since then, Gayle has visited Mickey several times and corresponded with him regularly. And she has joined Murder Victims' Families for Reconciliation, a group that opposes the death penalty. "It is the way I honor Catherine," she says. "To murder someone in her name and to say we are doing it for her is horrible." Gayle sees herself as a spark for smaller mercies. "People think, If she can do that, maybe I can forgive my sister for what she did to me or my brother-in-law or mother—or whomever they've been holding a grudge against all these years."

For all its feel-good potential, however, forgiveness has more problematic reverberations than, say, Prozac. Can a woman's healing be helped by forgiving a physically abusive ex-husband who continues to savage her verbally among friends? What if they are still married and he is still beating her? Should the unrepentant be forgiven at all? Kittle, the Wisconsin restorative justice consultant, warns of misuse: "In religious traditions, there can be a sense of revictimization. They say to themselves, Here I am, and my child has been killed, and my pastor during my grieving period says, Jesus says you need to forgive, and if you don't, you are a sinner."

THE UNFORGIVEN

■ Would you forgive someone who:

	% FORGIVE	% NOT FORGIVE
Told lies about you?	73	24
Stole money from you?	67	31
Slapped or punched you in the face?	64	32
Held you up with a gun?	42	54
Murdered someone in your community?	33	59
Raped you?*	22	73
Raped a member of your family?	19	77
Murdered your child?	15	81

*asked of women only

From a telephone poll of 1,049 adult Americans taken on March 25 for TIME/CNN by Yankelovich Partners Inc. Margin of error is ±3%. "Not sures" omitted

The definitions of forgiveness are many, but most acknowledge that it involves a "giving up" of something, whether it be anger, the right to vengeance or, say some skeptics, the memory of an event the way it really was. In *The Sunflower*, Nazi hunter Simon Wiesenthal asked whether it would be proper for a Jew in a slave-labor camp to grant forgiveness to a dying SS man begging absolution for earlier murders. As part of a symposium that is incorporated into the book, the writer Cynthia Ozick said absolutely not: "Forgiveness is pitiless. It forgets the victim. It blurs over suffering and death. It drowns the past. The face of forgiveness is mild, but how stony to the slaughtered ... Let the SS man ... go to hell." How-to books, therapy and interventions may be useful in dealing with an unfaithful spouse, gossiping colleague or even some cases of violence. But there are other practices—serial killing, torture, genocide—often regarded as unforgivable.

There are no easy answers to such objections. But for most of us, they will remain in the background so long as—during its journey from sacrament to science experiment to possible nostrum—forgiveness becomes neither a foregone conclusion nor an obligation, but remains a mystery within the heart of the forgiver. Only then will people like Mitchell Wright feel free to continue their struggles. Wright knows that far from being the recourse of wimps, forgiveness is the hardest course of all.

"Hate can come easy," he says. "I am having a tough time, and I pray. It's not as bad now as it was. But there were several times when I found myself confronted with mixed emotions. You just pray to God, 'Lord, help me. I need some help with this anger.'" He takes solace in one other resource unavailable to those whose forgiveness is removed entirely from faith. The night his wife died, Mitchell Wright talked to his son Zane. "He asked me when Momma was coming back, and I told him she couldn't." But, he recalls, "I promised him we would both see her again." *—Reported by Wendy Cole/Madison, Emily Mitchell/New York, Sylvester Monroe/Atlanta and Laura Laughlin/Phoenix*

Workshop Two
Victim Activism:
Transforming Ideas Into Reality

Victim Activism: Transforming Ideas Into Reality

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Benefits of Community Involvement

Community involvement can help victims overcome feelings of low self-esteem, isolation, powerlessness, fear and anger. The process of connecting with others, confronting and overcoming real-life challenges, striving for justice and giving something back to the community can provide recovery benefits not achieved solely by traditional counseling or therapy.

Rebuilding Low Self-Esteem

Participating in peer self-help groups can improve victims' self-images by demonstrating they are neither abnormal nor guilty for the victimization. Before joining groups such as Families of Homicide Victims, survivors often blame themselves for their children's deaths, seeing themselves as inadequate parents because they could not protect their children from harm. By talking with other parents who seem nurturing and loving, they are able to look at them- selves and the question of blame more realistically. When those who once lamented, "If only we had moved to a safer neighborhood," meet residents of safer neighborhoods who have also lost family members, they begin to recognize that it was not their fault. Self-help groups can create an "adaptive spiral"; acceptance by other group members boosts the individual's self-esteem, in turn increasing his or her empathy and support for others.[11]

Community involvement generally involves some degree of risk; there is no guarantee that victims' efforts will pay off. Efforts to pass legislation, increase services for victims, or establish prevention programs will often be disappointing. By standing up to these challenges and failures, victims prove to themselves and others that they are neither weak nor helpless, and that they are able to fight their own battles.

Self-esteem also can be enhanced by joining a particular cause "from which one derives reflected power and glory."[12] Creating psy- chological strength through numbers—banding together to advance the cause of victims or to reduce violence—can provide a dividend of empowerment that may be considerably greater than victims might receive through individual action. When victims share their personal experiences with others, they are no longer alone in their struggle.

Reducing Isolation

Victims of crime often feel alienated from family, friends and community. They may consider themselves stigmatized or tainted by the crime, a feeling reinforced by insensitive treatment from those who "shun victims, sensing their 'spoiled identities.'"[13] Battered women are especially at risk of feeling isolated because they are often separated from society by their abusers. According to Stark, "the hallmark of the battering experience [is] 'entrapment'. . . a pattern of control that extends. . .to virtually every aspect of a woman's life, including money, food, sexuality, friendships, transportation, personal appearance, and access to supports, including children, extended family members, and helping resources."[14]

Lebowitz, Harvey and Herman describe the process of overcoming this isolation and reestablishing ties with others as one of the key stages of trauma recovery.[15] Social action can serve as one effective means of achieving this reconnection. When victims work with those who have had similar experiences, they begin to realize they are not alone.

Peer support groups or victim-initiated advocacy groups may help to create a new community for victims that can be strengthened by grappling with the larger social problems that affect it,[16] and may serve as a bridge to relationships outside the group.[17] Publicly embracing the victimization experience through advocacy or other public actions can reduce feelings of deviance and stigmatization that perpetuate isolation from others.

Regaining a Sense of Power

A common reaction to crime is to ask, "Why me?" Unable to find a reason for their victimization, crime victims may feel a loss of control over their surroundings. By joining with others to prevent violence or improve the treatment of crime victims, victims can have an impact on the community and recapture a sense of power. They "transform the meaning of their personal tragedy by making it the basis for social action."[18] Victims who are able to answer "Why?" perhaps by taking on a survivor mission, may be less likely to be psychologically incapacitated;[19] they create something positive out of a negative experience by carving out an area of their lives where they are in control. Sarah Buel, a battered woman who became a district attorney specializing in domestic violence cases, said, "I feel very much like that's part of my mission, part of why God didn't allow me to die in that marriage, so that I could talk openly and publicly. . .about having been battered."[20]

Dealing with Fear and Anger

Fear of revictimization, which is related to feelings of powerlessness and isolation, is a powerful, sometimes paralyzing result of crime. Fear of crime can be "divisive. . .creat[ing] suspicion and distrust,"[21] but it also can "motivate citizens to interact with each other and engage in anti-crime efforts."[22]

Crime victims can master their fear by working on community crime prevention projects. In a study not limited to crime victims, Cohn, Kidder and Harvey[23] found that those involved in community anti- crime projects felt more in control of their surroundings and had less fear of crime. Other studies linking isolation from the community with fear of crime suggest that, as victims become more involved with others, they become less afraid.[24] After witnessing the murder of his father, a student in a school-based victim assistance program over- came his fear of being victimized again by launching an anti-violence campaign in his school. By finding a more positive way to increase the safety of his environment, he no longer felt the need to be overly defensive or to resort to violence to protect himself.

The anger that follows victimization—at the offender, at the criminal justice system and at society for letting it happen—can productively be redirected through activism. By speaking out at conferences, schools, churches and public hearings, Tom McDermott found that he "transferred [his] hatred, bitterness and white-hot anger into some- thing positive." Some victims may focus on the pursuit of justice, not only for their own suffering but also because they recognize the detrimental impact of crime on society. Herman notes that in the later stages of recovery, victims often embrace abstract principles that "transcend [their] personal grievance against the perpetrator [and]. . .connect the fate of others to their own."[25] Thus, in addition to wanting the individual offender brought to justice, they might work to ensure that victims are given the support they need or to fight the social conditions that may have contributed to the crime. In these ways, feelings of rage and anger are transformed into constructive social action.

Some victims find release by sharing their experiences with others, who also are helped in the process. After telling the story of his son's murder at conferences, Ralph Hubbard found that his words helped other men talk about the loss of their own child after years of silence and denial. Hubbard describes this experience as "one of the most rewarding things ever." Similar benefits from sharing have been described by victims of AIDS and other serious illnesses who, as Susan Sontag describes in Illness as Metaphor, have historically been ostracized and silenced.[26]

Others feel compelled to testify publicly about their victimization—in court, in church, to community groups, or in print. Like the physician narrator of Albert M. Camus' The Plague, whom Felman and Laub describe as feeling "historically appointed 'to bear witness in favor of those plague-stricken people, so that some memorial of the injustice done them might endure,'"[27] victims sometimes need to testify to feel that some degree of justice is achieved. Describing the survivors of

the Holocaust, Felman and Laub note that, "The witness's readiness to become himself a medium of the testimony—and a medium of the accident—in his unshakable conviction that the accident [or the crime]. . .carries historical significance. . .goes beyond the individual and is thus, in effect, in spite of its idiosyncrasy, not trivial."[28] By continuously reminding the populace of the injustice, victims prevent society from acquiescing to what they may prefer to deny or forget. Lorna Hawkins was frustrated that no one else seemed outraged by the death of her two sons by gang violence; random shootings were so common in Los Angeles that her story was not considered "news" by the media. To raise awareness about the pain, suffering, and injustice of urban violence, Hawkins began "Drive-By Agony," a weekly cable show.[29] Countless other victims have spoken out against violence and advocated for reforms. Since 1990, 72 noteworthy activists have been recognized by the President's annual National Crime Victim Service Award.

Caveats Regarding Victim Activism

Though beneficial for many, becoming a victim activist is not a requisite step in trauma recovery and may be problematic for some. Because people recover in different ways and have different needs, community action is not necessarily appropriate for all crime victims. The individual's personality and history of victimization may play a role in determining whether community involvement will be helpful to recovery, while the availability of emotional and financial supports may be a factor in determining whether the victim has the time and energy to spend on community issues. Some victims of crime, though able to lead normal lives, may never feel prepared to deal with the pain of others or the frustrations of advocacy efforts. Being a victim may not be enough by itself to lead to activism; there is some evidence that victims who become active in community efforts are likely to have been activists before the crime.[32] In the absence of clear criteria for when activism is likely to benefit a traumatized individual, a victim's own interest and desire to participate should be the determining factor. Rather than prescribing activism as a necessary part of the recovery process, professionals can provide people with opportunities for action, and support those who choose to get involved.

Timing is also an important consideration in community involvement. Advocating for legislative reform or helping others before coming to terms with their own trauma may impede some victims' recovery. Lebowitz, Harvey and Herman note that what they call the third stage of trauma recovery—reconnecting with others—should not be attempted until the earlier steps of achieving a sense of safety and exploring and integrating the traumatic event have been achieved.[33] Unless they have reached this stage, victims may be unable to cope with other people's trauma on top of their own. Listening to others' crime stories may exacerbate fears and bring back disturbing, even overwhelming, memories of their own experiences, thereby retraumatizing them.[34] Research on MADD's Victim Impact Panels has shown that the act of speaking out was beneficial for the overwhelming majority (87 percent) of participants; the few participants (3 percent) who felt they were harmed by it had become involved too close to the incident—they were still using coping strategies, such as denial, that conflicted with telling their stories publicly.[35] This suggests that victims who invest themselves in advocacy efforts too soon may be taking on more than they are ready to handle. If individual change is difficult, societal change is even more so, especially in the face of political opposition. To avoid these pitfalls, activism generally should be encouraged later rather than earlier in the recovery process.

Certain types of activism may cause victims to feel exploited, potentially revictimizing them and setting back their recovery. For example, some victims who have spoken out through television and other news media feel that they have been taken advantage of—that their messages were misrepresented or their words cut or edited to alter their meaning. In an attempt to make a story more compelling, some journalists recast victim activists' identities, portraying them as powerless and pitiable rather than empowered and brave. As a result, victims may feel embarrassed or betrayed, and may be less likely to speak out in the future. To avoid revictimization and to appropriately access the power of the media, victim activists need to understand how the media works—for example, that their page-one story may fade completely from the news a day later. Victim services organizations can provide training for crime victim activists as to what they might expect from working with the media. And the news media need to become sensitive to the risk of revictimization as well as the value of victim activism.

Finally, some victims interested in activism may not feel comfortable getting involved through organizations that are labeled as "victim" activist or "victim" assistance, which is one reason why other community groups—religious institutions, community organizations, neighborhood and parent groups and other formal and informal organizations—should support crime prevention and activist efforts. Some individuals who already have ties with these groups may feel more comfortable taking action in familiar settings within their support networks than venturing into new organizations. Thus, institutions outside the victim field need to be supportive of victims, and recognize that victim involvement can benefit both their own individual members' well-being and their efforts for community improvement.

Recommendations for Victim Service Programs

Working directly with crime victims, victim service programs are in an excellent position to educate them about the larger political and social context of crime and violence and to create opportunities for activism. Victim service programs should:

1. Train staff to understand the benefits of community activism for victims and to be aware of opportunities for victims both within and outside victim assistance organizations.
2. Engage crime victims in the leadership and guidance of the organization through serving on boards and developing new services and programs.
3. Create speakers' bureaus which recruit and prepare victims to speak at conferences and with legislators, criminal justice officials, police, medical personnel, and others about the needs and rights of victims and the causes of violence.
4. Include battered women as presenters in domestic violence train- ing programs for police, service providers and others.
5. Actively engage victims in paid and volunteer positions throughout programs.
6. Prepare victim activists to work with the media.
7. Promote and disseminate information about the value of victim activism through local and national associations of victim assistance programs. For example, the National Organization for Victim Assistance and the National Victim Center have provided training and technical assistance to foster victim involvement.

Recommendations for Government

As new legislation and criminal justice reforms have increased the involvement of victims in their own cases, the public sector has gained the ability to expand victims' involvement in their communities, even with current financial constraints. Many of the following recommendations require little or no new resources: instead, they focus on shifting priorities for decision making or program funding. Public-sector agencies and organizations should:

1. Actively engage crime victims in the policy decisions that affect them. Public hearings on legislation and public policies that affect victim services, victims' rights, and violence prevention should always include testimony from victims themselves.
2. Require victim involvement as part of professional curricula in all disciplines that work with victims (e.g., criminal justice, social work, medicine, and law enforcement).
3. Incorporate community involvement as a funding guideline. This will encourage the creation of programs that engage crime victims in service, advocacy and violence prevention roles. Requests for proposals should require victim participation on advisory boards, as designers of services and projects, and as paid or voluntary staff.
4. Launch demonstration programs to develop the most effective program models for victim involvement. One possible route might be AmeriCorps, where youth could work in their communities to engage crime victims in social action.
5. Create opportunities for battered women to become more openly and actively involved in their communities. Services to empower battered women and increase their sense of self-determination— including education, job training, and placement—would provide them with the skills and confidence they need to reach out to others. Public education programs that debunk the myth of battered women as helpless would increase society's acceptance of women who do speak out.
6. Engage crime victims through community policing programs. Designed to create partnerships between police and the com- munities they serve, these efforts are ideal situations for victims to work with police to reduce crime and help others in need.
7. Encourage the involvement of all citizens, along with crime victims, on issues of victim

assistance and violence prevention, through public education (public service announcements, news and entertainment media). When victims initiate or join community-based efforts, they often do so with the understanding that the injustice they experienced affects all of society. A more widespread recognition that crime affects everyone would create a more supportive atmosphere for victim involvement, and could reduce some of the social barriers to community activism, such as the common tendency to blame the victim.

8. Support research to document more clearly the benefits of com- munity involvement for victims' recovery. This would provide the rationale and motivation necessary for victim assistance programs to create opportunities for victim activism and establish links with victims' organizations.

Introduction: Two Stories

In 1985, Ralph Hubbard's 23-year-old son was shot and killed in New York City. After years of feeling angry, frustrated and powerless, Hubbard resolved to help other families work through their suffering. In a Victim Services support group for families of homicide victims in New York, he began to speak out, telling his family's story to the police, criminal justice officials, social service providers, and the public. He found that telling others what his family had gone through helped him cope with his pain and anger and inspired other victims to address their feelings. He started a self-help group for men who had lost family members to violence. He also became an adviser to New York's Crime Victims' Board, vice president of Justice For All, a victims' rights advocacy group, and a board member of the National Organization for Victim Assistance. A leading spokesperson for victims' rights in New York State, Hubbard feels no less compelled to be an advocate for victims ten years after his son's murder: "It's something I need to do. This is therapeutic for me."

Survivors from the 1993 Long Island Railroad massacre were determined to prevent similar atrocities from happening to others. Colin Ferguson's shooting spree transformed a number of those who were either on the train or lost family members into outspoken advocates for gun control and victims' rights. Today, they speak at vigils, rallies, on television talk shows, and with legislators about the personal impact of the event, and they lobby for a ban on assault weapons, including the model used in the shooting. Tom McDermott, who was on the train that evening, believes he was spared in order to join the fight against gun violence. "I'm a radical now," he often says. "I'm a radical for the safety of us all."[1]

Barriers to Involvement

Given the successful programs described above and their benefits for both victims and communities, why is victim activism not more widespread? One reason cited by Skogan and Maxfield is that those crime victims who see conditions in their communities improving are more likely to try to do something about crime, whereas people living in more traumatized neighborhoods may feel relatively more "incapacitated" by fear for their safety.[36] Research has suggested that, although victimization may lead to community involvement, the very social conditions that contribute to victimization can also discourage activism. A disproportionate number of crime victims already feel disempowered by racism, poverty, sexism, and a lack of political power. Victimization makes them feel even more helpless and estranged from society. For many, the combined effects of living on the margins of society, being victimized and living in constant fear of crime can make social activism seem irrelevant and futile.

Society's tendency to blame victims further inhibits their ability to become effective public players. The common misperception that victims are responsible for their victimization (especially victims of domestic violence or sexual assault) can inhibit them from becoming advocates, damage their credibility as victim activists and cause them to pull back. In this way, some crime victims miss out on the recovery benefits of involvement, and society loses their potential contribu- tions for social reform. This tendency to blame victims suggests that the friends or relatives of crime victims who fight on their behalf may be less subject to personal criticism and social backlash than those victims who act on behalf of themselves.

Moreover, people who are subjected to on-going violence or abuse— victims of sexual assault, domestic violence,[37] stalking or gang vio- lence and those who live in neighborhoods characterized by chronic violence—face multiple barriers to activism. For example, the feelings of low self-esteem and degradation resulting from the "coercive con- trol" that characterizes partner violence, as well as the symptoms of what Judith Herman calls "complex post traumatic stress disorder,"[38] can inhibit the capacity of women (and no doubt others suffering persistent victimization) for living, much less

taking public action.[39] In some cases, individuals may not even imagine the possibility of activism because they do not identify or label themselves as victims, or they may be silenced out of shame and embarrassment. This is often the case where community violence is the norm, when society explicitly or tacitly condones men's power and control over women,[40] or if the violence occurring within families (against women, children or the elderly) is denied. Of course, real fear of being found or of violent retribution keeps other victims (women who have fled violent relationships, gang

In view of such substantial barriers, the effective activism of some victims is especially noteworthy. For example, Barbara Hart in Pennsylvania, Vickii Coffey in Chicago and Sarah Buel in Quincy, Massachusetts are formerly battered women whose names are synonymous with the leadership to end violence against women. Many others across the country—perhaps less publicly and without necessarily identifying themselves as battered women—work in shelters and provide peer counseling for other battered women. In recent years, adult victims of child sexual assault have become a vocal and effective force in raising awareness about the prevalence and trauma of incest. In many communities beset by violence, poverty and racism, committed residents—many of whom have lost friends and family to violence—have stayed to fight for education, job training and opportunities, especially for young people.

Building primarily on their own initiative, commitment and resources, crime victims have demonstrated the viability of activism and its value for themselves and society. The role of "victim as activist," however, has not yet become a recognized role in society, its benefits for victims' recovery have not been sufficiently examined, and most victims lack the opportunity or support they need to become involved. By creating structures for community involvement, forging links with existing victim programs and conducting further research, the public sector and victim assistance

organizations could mobilize many more crime victims to help others and to participate in grass roots initiatives for victims' rights and crime prevention, thereby enhancing their recovery and helping to improve society.

The self-determination that contributes to victims' healing needs to be supported but not co-opted. By placing a higher priority on victim activism, government and assistance organizations can ensure that community involvement efforts remain community-based, rooted in the soil of individual victims' dedication and experience.

Coalition Building

There is no single de[illegible]nition of a coalition. A coalition may be thought of as a group of organizations coming together for a common purpose, but it may also include individuals as well as organizations. Coalitions may be short-term or long-term. They generally are convened because an issue or problem in a commun[illegible] becomes a concern and touches on the issues of mul[illegible]e organizations. A coalition is an effective approach to a problem. Its size and composition may make its message more persuasive and dissipate the fear of groups afraid to act alone.

Two Essential Building Blocks

Self Interest

Self-interest is key to community organ[illegible] Discussion of issues can lead to discovery of values. What people spend their time on is a key indicator of what they value. Then the trick is identifying, from the variety of individual self-interests within the group, common interests around which to organize the coalition's activities.

Trust Relationships

Coalitions can be short term or long term. Short-term coalitions tend to form quickly around particular issues of immediate concern to a large number of people and then dissipate after the issues are resolved. Long-term coalitions have a broad enough that they can be sustained and adapt over time to meet a variety of issues as [illegible] become critical. Long-term coalitions are held t[illegible]r by the trust relationships that are formed between the members as they work together over time. At its best a long-term coalition is a ready com[illegible]unity able to quickly mobilize as new issues arise.

As your coalition develops, keep in mind these two key requirements for your coalition to be successful and to move forward. First, be clear about what keeps your members at the table and continue to forge a vital common self-interest. Second, you must work persistently to develop and deepen trust relationships and shape your organization to nurture these relationships as time passes and new people come into your coalition.

Elements of a Successful Coalition

- Inclusiveness
- Conflict resolution process
- Clear decision making process
- Establishment of an easi[illegible] understandable struct[illegible]
- Assignment of tasks--everyone has something t[illegible]
- Based on a strategic plan
- Involves action

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Telling Your Story To The Media

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Working with the media is tough, but ignoring it is tougher. It's also, in the end, a losing strategy. Ease the way by planning ahead: Know what you want to say, why you want to say it, who to say it to and how to phrase itand you're practically there.

Introduction.
Next to asking for money, talking to reporters can be one of the most difficulteven unnervingaspects of an organizer's work. But it's every bit as important. Whether you're trying to shine the light on stealth candidates or keep books on the shelves of your local library, the media can play a critical role in how your story ends.

I. Starting out or First Things First
Before you can begin telling your story, you have to know what it is. That means being able to talk easily and succinctly about who you are, why you formed this organization, and what you hope to accomplish. One way to make sure you can do this is to formulate a mission statement. Even if it's seldom used, the process of writing it helps hammer out these and other answers. Be able to answer these questions:

"Why are you doing this?"

"Who are you?"

"Why should anyone care about this issue?"

Next, think about why you want to tell this story. Do you want to influence policy makers? Increase awareness among voters? Increase membership? These questions may not be asked directly, but it's always a good idea to keep your focus in mind when talking to the press.

II. Impress 'Em With Paper
Have your materials prepared before you approach the press. Your general information piece should include: a standard oneor twosentence paragraph explaining your organization, the names and affiliations of the people involved in your organization, an address and working phone number. That means a number that doesn't go unanswered and isn't busy 23 hours a day.

Don't let a small budget hold you back. Your material doesn't have to be glossy and expensive just neat, wellwritten and typofree.

III. Finding Those Reporters
Now you're ready to begin identifying the media in your area. Start a list of daily and weekly newspapers, radio and television stations, the Associated Press bureau that serves your area, and college papers that cover offcampus news.

Monitor media coverage regularly to find out who is most likely to cover you. At smaller outlets, particularly television and radio stations, reporters are more likely to be general assignment, covering dozens of different stories every week. This means it may take more time to develop a relationship with certain journalists, and also that you have to be ready to go over background more than once.

Make sure you have correct phone and fax numbers, and mailing addresses. (Widespread fax technology has made the written release a relic, but you may want to mail other kinds of information.)

Deadlines are critical information. Remember that not only do different outlets have different deadlinesthe same outlet may have different deadlines depending

on the day of the week and the subject matter.

Finally, put together a list of alternative media sources. This includes talk shows on radio and TV, and the op-ed pages of area newspapers. Again, assemble the names and numbers for the people in charge.

IV. Setting the Stage
The media can be approached in a number of different ways:

Press release
Ideally, a one-page, double-spaced news announcement that talks about an action taken, a position staked out, people appointed to positions, suits filed. Releases can be used alone or in lieu of a press conference.

Press conference
While print reporters may be able to work from releases, television needs visuals. That's not a criticismjust a statement of fact. Press conferences allow you to use props to make a point as well. (Talking about censorship surrounded by stacks of books that someone is trying to ban, for example.) Of course, holding a conference is more complicated and risky than sending out a release, too. You have to find a good location accessible to reporters, at a time that makes it easy for them to meet their deadlines. And you have to have a reason. A release that doesn't grab anyone's attention will just get tossed in the trash. A news conference without news can actually generate hostile attention.

Press advisory
This is a written announcement of a scheduled eventpress conference, rally, speechsent out in advance. Although not a news release, it should contain enough of a hook to get the media there.

Editorial boards
These scheduled meetings are on or offtherecord conversations with a paper's editorial staff, taken to introduce an issue or organization, scheduled at your or the paper's suggestion. They may result in editorials and they may not. Reporters may or may not sit in. They are useful, but be careful not to assume that discussions with editorial staff are the same as discussions with reporters.

V. Talking to Reporters
Just as there are different ways to approach the media, there are different reasons. Those break down into two main categories: Proactive and reactive.

Proactive
This means taking the initiative. It can range from announcing the formation of your organization to coming out in support of proposed legislation. It means you are seeking out reporters, which means you have the task of convincing them that something is newsworthy.

It helps to have a hook to sell your story. Is your event the first of its kind? Is it in recognition of an anniversary? Does it tie into a national event? Think about how reporters will phrase the part of their stories that explains why they're writing it. (If you're not sure what that is, take some time reading and listening to news reports. Pinpoint the reason why stories appear when they do.)

Getting your story told on talk shows and in the op-ed pages is part of being proactive. Don't wait for talk show producers to call you. Let them know you're available and why. Don't wait for newspapers to call, either. If you have an idea for an opinion piece, call the paper's editorial page and find out how to submit an idea.

Reactive
This involves responding to actions or comments by opponents. Part of your media work is intended to make sure reporters know you're there so you will hear from them when your issue is the topic of a news story. But you don't always have to wait for a call, either. For example, if you know that a local

antigay group is holding a news conference on Tuesday at 1 p.m., call the reporters ahead of time to make sure they know you'll have a response. If you've just settled in for the evening news and see something that warrants a responsedon't wait until the next day. Call the paper and see who is working on that story. Call the TV station and see if they're planning to rerun the story. Tell them you have something to add.

VI. Conclusion
These suggestions will help you get started. Remember, there are always people out there who have done it before and would be more than happy to help. If you're not sure how to approach the media, call a national organization's press office. Talk to someone locally who has spent a lot of time with the media. The most important point to keep in mind: you have something newsworthy to say. Say it.

Pointers from the Pros Media tips from three professionals.

Susan Bennett, producer for CNN's "Crossfire." Bennett says talk shows should be an integral part of an organization's media plan. These are her tips on making the most of this medium.

"Call ahead of time and let producers know you have someone they might find interesting. Call in advancenot when news breaks."

"Know what different shows are looking for. Not all shows want the same thing. 'Equal Time' is different from 'Nightline' which is different from 'Crossfire.'"

"No one wants someone who is dull, who's slow. We look for someone who engages."

"Consider taking a publicspeaking class. Become more versatile at quick analysis. Learn to articulate your viewpoint in a few short sentences."

Eric Alterman, author of "Sound and Fury," senior fellow, World Policy Institute, Washington Correspondent, Mother Jones:

Alterman offers advice as a writer and as someone who has written extensively about the media.

"Don't sound like a nut. The media thinks anyone with a cause is crazy. Be as unemotional as possible."

"It's got to sound like news. The first question is 'what's new?"

"Look for a larger hook. Tie your news into something national."

"Never assume a reporter is telling the truth when he says he won't tell anyone." Reporters using your off-the-record information may name you in a quote directly above, he explained, virtually giving away your identity. In addition, reporters may not report what you say, but may use it along with your identity in conversations with other sources.

Doug Bloomfield, columnist and political analyst Bloomfield emphasizes the importance of knowing reporters personally, working to develop a relationship over time:

"The information highway is a twoway thoroughfare. A good reporter can also be a good source. If you have a good relationship, they can serve as an earlywarning system for you."

"Be sensitive to the personal interests and idiosyncracies of journalists most important to you."

"Different reporters put different degrees of credibility on different sources. Know how to take advantage of the special relationships that may exist between some of your staff or board and key journalists."

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The Science of Spin

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Spinning is the art of framing an issue in the way that you perceive it. It's your message, your interpretation. The key to a successful campaign, spin should be an automatic piece of anything you write or say.

I. What is it?

First, it is not something negative. Forget the sweeping criticism you've heard about 'spin doctors.' Spinning isn't lyingit's interpreting and defining. It's an integral part of all political work, something that needs to be done whether you're writing a news release, testifying before the school board or debating a caller on a radio talk show.

What is spinning? It is the process by which you frame the debate in your own terms. It is how you define yourself and your opposition. It is your message.

II. Does it Work?

Yes. A number of political movements have had success in framing themselves and presenting their message in language that determines the parameters of the debate before it even begins. For example, antiabortion activists have been insistent that they be referred to as 'prolife' groups. By staking out the high ground, they played on the tendency in the media to assign two sides in every story. If these people were prolife, than that made the other side 'proabortion.'

It took a while of concentrated message, but the choice community has reversed the direction. The phrase 'a woman's right to choose' has become commonplace, and the value of the word 'choice' has become apparent. Now, we see people who favor using tax money for private schools referring to 'school choice.'

III. Making Your Message Stick

Start framing your issue from the beginning. It's virtually impossible to stop and expect people to reexamine your issues and arguments midway through any debate. That's why early message development is so important. So is an accurate message. Remember, your message must ring true to work.

Once you've developed your message, use it consistently. This is the key to getting it across. Work it into soundbites for the media. Use it in all your communications, and work with other organizations in your network or coalition to do the same.

IV. Content

Thematic consistency works the same way. Strive for a constant note in the tone of your message.

Also, fashion a message that people will listen to. That means working on succinct, tothepoint statements. Don't make sweeping generalizations or sound an unbelievable or unpalatable alarm. Be positive; avoid attacks on your opposition. Debate the message, not the messenger.

V. Playing Defense

As important as it is to concentrate on your message, you should also work to prevent anyone else from doing it for you. It's easier said than done, but far from impossible. For example, seize every opportunity to define the debate. Don't answer every question or attack just because it's there. Restate the question or the attack. There will be times you choose to ignore it completely.

VI. Conclusion

The issues that make up the Radical Right's agenda present a problem for public debate. Although they are personal, emotional topics, they are also about much larger, public questions. The debate over protecting gay and lesbian civil rights is also about continuing our country's move toward providing fairness and protection for its citizens. Arguments about censorship are about the right to have access to information. Keep these concepts in mind as you take your message to the public. Keep educating people about the underlying issues. But do it with perspective and humor. Nothing can drag a debate down faster than a narrowly focused diet of deadly serious argument.

NATIONAL ORGANIZATION FOR VICTIM ASSISTANCE

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Legislative Advocacy

"In all forms of Government the people is the true legislator."—Edmund Burke

Laws are created by individuals who represent the public as a whole. They should reflect a public conscience that seeks to answer public problems. Crime is one of those public problems. And the victims that are the casualties of crime must receive appropriate treatment by the criminal justice system and society, if any solution is to be designed.

For these reasons, legislative advocacy is an important part of establishing victim rights and services. Not everyone can be a lawmaker—a duly elected representative of the public—but everyone can be a legislative advocate. S/he can attempt to influence the opinion or actions of decision makers. Advocacy efforts may be directed at the U.S. Congress, state legislatures, city councils or administrative agencies. Anyone who attempts to communicate a point of view in order to influence a decision or course of action in this process may be considered a legislative advocate.

Some people think that successful advocacy depends on money or status. Through the passage of forty-four compensation programs, thirty-one bills of rights, and hundreds of other statutes addressing concerns of victims, victim advocates have proven that dedication and commitment coupled with legislative skills are as potent as fame or fortune.

This Information Bulletin will summarize the knowledge and behavior that form the basis for successful legislative advocacy. Such a foundation can be effectively explained by describing it in two ways: issues dealing with process and procedure, and issues dealing with skills and strategies.

Process and Procedure

What does a legislative advocate do?

Working with the legislature requires persistence, strategy, timing, compromise, knowledge of rules and procedures, help from friends and allies, and sometimes just plain good luck. To be successful in their efforts, advocates need to gain a working understanding of the process and procedure of the state legislature. This varies from one state to another, and so prospective advocates should not rely upon general texts to explain the process in their jurisdiction.

Advocates also need a thorough knowledge about their issue. They should define their goals clearly and concisely. In developing legislative goals, advocates should review what legislation has already been enacted so that they can clearly identify what the state needs. To accomplishing that review, it is helpful to look at models of other legislation that have been drafted, introduced, or passed in other states.

In January of 1986, model statutes will be available from the U.S. Department of Justice on a broad range of victims legislation. Drafted by the American Bar Association (ABA), the National Association of Attorney's General (NAAG) and the National Organization for Victim Assistance (NOVA), these statutes will serve as a good resource for drafting state legislation. Another resource for developing a legislative agenda is NOVA's annual Legislative Directory. The Directory provides a summary of each states legislation, the full text of selected statutes on key victims legislation, and charts of over 50 different types of enacted legislation by state.

In addition to gathering as much background information on what other states have accomplished, the facts, figures, and statistics on each jurisdiction should be examined in relationship to other states.

Once background information has been gathered, the next step is to identify all the resources available to help accomplish those goals. Two key types of resources are financial and organizational. Advocating for legislative change will require some monetary investment. There are incidental costs such as local transportation and parking, stationery, postage, and phone calls. In major campaigns there are also substantial budget items such as office space, typewriters, costs associated with providing expert testimony, advertisements, and so on.

Develop a budget and identify sources of funding. It may be necessary to build a fundraising component into the legislative strategy in order to develop support as well as encourage contributions. Always keep good financial records to document accounts and to build a donor list for future advocacy efforts.

The second critical resource needed in legislative campaigns is the support and working commitment of other organizations. Coalition politics has become a potent force in all advocacy efforts.

It is important to organize a group of interested supporters as soon as possible, because most individual advocates do not have the necessary time or money to sustain advocacy campaigns on their own.

Once legislative goals, information, and resources have been identified, it is necessary to become familiar with the legislative process and key players in the enactment of legislation.

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The legislative process differs from state to state and from state systems to the federal system. Legislative campaigns have been won or lost very often on the strength of an advocate's ability to understand that process. The following questions are critical in that analysis:

- How are bills introduced for consideration in the state legislature? Is it done by legislator, committee, or initiative?
- When does the legislature meet? Are the sessions annual or biannual? How many months is the normal session? Are "special sessions" common?
- How long is a legislator's term?
- How are committees created? Who appoints the chair? How is committee jurisdiction defined?
- Are committee meetings open to the public and are votes recorded?
- What is the procedure for public hearings?
- What are the parliamentary rules?
- What information is public and how is it obtained?
- Are party caucuses open to the public?
- Must advocates register and is there a fee? What additional requirements apply that may depend upon the tax status of the advocate's organization?

Not only is this information essential for designing a legislative strategy, it also is the basis for constructing a timeline for goals and objectives.

Knowing the key players in the legislative process is also crucial. Find out as much information as possible about the state legislators and state lobbyists. Identify all the important people who can help or hinder the progress of legislation—including receptionists and secretaries as well as principle legislators. Find out who the key representatives from the executive branch are and develop profiles on them. Profiles should include their personal interests, their relationship to members of their constituencies, their legislative issues, and their voting base.

Contact all organizations that might have an interest in legislative issues relating to victim rights or services and find out who their legislative representative is. Most experienced legislative advocates will have a great deal of background information that can save beginning advocates many hours of research. In addition, the United Way and League of Women Voters have published directories of state legislatures in many states. These often are very useful compendia of voting records, election margins, district demographics and legislators' interests.

In developing profiles of state legislatures, the following information is needed:

- A map of the state and an outline of legislative districts and their representatives.
- The identity, background, and interests of informal legislative leaders—those respected by their colleagues even though they may not hold a formal leadership position.
- The identity, background, and interests of legislative staff—both personal staff and committee staff (if such staff exists).
- The identity, background and interests of the formal legislative leaders, (committee chairpersons, caucus heads, members with seniority.)
- The political climate of the legislature. That climate is affected by such issues as whether or not it is an election year, budget pressures, party relationships, relationship to the executive branch, and so on.
- The time constraints on the legislature. These usually involve an analysis of other pressing issues, the existing legislative calendar, and procedural rules.

It is essential to know the formal legislative process for enacting statutes. Despite the variation from state to state, there are key steps that are generally followed.

1. Drafting the legislation.

Because most advocates do not have the experience or expertise to draft bills, it is a good idea to try to convince a legislator to draft the bill or arrange to have it drafted by a member of the state's "legislative counsel" staff. Give the drafter a list of major points that should be included in the proposed legislation and any sample legislation from other states or national organizations that is available. After the drafter has completed a first attempt, work with him/her to refine it to reflect special victim interests.

Bills should be drafted in clear and precise language. Many states are beginning to adopt a "plain language approach" in order to make laws comprehensible. Remember that legislation is often the basis for litigation. The more precise the language, the better it can be implemented and enforced.

2. Getting the bill introduced.

After drafting a bill it is necessary to identify a lead sponsor before the legislative session begins who is willing to introduce it. An ideal sponsor is a legislator who strongly supports the bill, who sits on a committee that has jurisdiction over the proposal, and is in a powerful position on that committee, such as the chairperson.

It is better not to introduce a bill than to have it introduced by the "wrong" sponsor. A "wrong" sponsor may be a person who is not respected, someone not a member of the majority party (in a state where the majority party is very powerful), or, in some cases, a junior legislator.

Once the lead sponsor has been chosen, it is helpful to solicit co-sponsors. There are never too many co-sponsors for a bill. The more early support built through co-sponsorships, the better the chances of passage.

3. Assignment to Committees.

After the bill is introduced, it will be assigned to the legislative committee (or committees) that has jurisdiction over the issue. In most cases victim-related legislation will go to judiciary or criminal justice committees. However, if the bill has funding provisions, it may also be assigned to a ways and means, finance or appropriations committee.

One of the most important points to remember in legislative advocacy is that committees are the basic work units of the legislature. They hold hearings, decide the provisions of bills, and decide whether bills reach the floor. The chairpersons of the committees often have great power. It is wise to become friendly with committee members, even if there is no pending legislation on victim issues. When legislation is introduced, they will already know something about the issue and you as an advocate.

Committee gatherings include formal meetings and voting sessions, conferences, work meetings and seminars, and subcommittee meetings. Informal contacts are as important as formal committee meetings. There are always too many committee gatherings and too few public interest advocates to cover them all, but try to attend as many as possible.

Committees often vary widely in their expertise and efficiency and working with committees can be very frustrating. There is often a great deal of behind-the-scenes dealing, indifference, and inefficiency. An effective advocate must learn to work with the frustrations.

4. Hearings on the bill.

Once a bill is assigned to a committee, it is advantageous to have hearings held on the issue. Public hearings are a major (and too often unused) channel for public participation in the formation of legislation. Broad citizen support and expert testimony are two effective ways to make an impact.

It is often up to advocates to encourage hearings. They are not held automatically. And the decision to hold them usually depends upon two things: the chairman's interest in the issue and demonstrated public interest in the issue. Advocates are responsible for the latter. If the committee agrees to hold hearings, the advocate may be called upon to do much of the background work. Staff may ask that advocates arrange for witnesses to testify orally or prepare to testify themselves; make ready written testimony for themselves or other witnesses; write questions for the committee members to ask during the hearing; and supply questions and answers for their own witnesses.

Strategy planning for committee hearings should begin well in advance of the hearing. Never underestimate the amount of time it takes to mobilize people to attend, locate experts, and prepare written and oral testimony. In preparing witnesses for testimony, encourage them to write the testimony or have a written statement prepared well in advance; then get them to practice giving a short oral summary.

Hearings in many state legislatures may run well into the evening, but plan to attend hearings from start to finish. At times, committee chairs who oppose an issue, purposely extend hearings very late so that witnesses give up and leave.

Because many committee members will show up at the beginning of the hearing and then leave, it is best to be first on the agenda for testimony. Use creativity and imagination in developing interesting testimony. The use of anecdotes and personal experiences capture the legislators attention. Do not read testimony. Give an oral summary and use different examples.

In addition to distributing written testimony to members of the committee and the press, develop what is known as a one-page "fact sheet" to distribute to committee members as well as to other legislators. "Fact sheets" are the classic tool used to explain proposals and are often the only way for legislators to get a handle on the issue. Make these fact sheets concise yet informative. Do not assume that legislators know or even care about the issue.

Every bill has a fiscal impact, and it is important to be aware of these financial implications and have answers ready for budgetary questions. Watch for tactics to defeat the measure in the appropriations or finance committee.

Do not depend on substance and merit to persuade legislators to work or vote for a piece of legislation. Personalities, indifference, old political debts, unexpected or unrelated events, and more may contribute to the fate of the proposed statute.

5. Committee mark up.

Whether the bill is assigned to a subcommittee or a full committee, it will have to go through "mark up" before it is voted out of the committee and sent to the floor for a vote. Find out if the state has open or closed door mark up sessions. Mark up meetings are used to amend and refine the language of the bill, and occur after hearings have been held by the committee.

Since language is so important in eventual implementation of legislation, it is essential that there is some involvement by advocates at this time. However, in most cases, there is no opportunity for direct involvement. Advocates should provide sample written amendments to the bill on any issue that is being considered for alteration. If certain aspects of the bill should be changed and are not yet being considered, then advocates should prepare letters urging such changes along with sample language.

Advocates should also assist staff in ensuring that there is a quorum of members to vote the bill out of committee. This may include obtaining proxy votes of members who cannot be present.

In some states a written committee report will accompany the bill as it is voted out of committee and to the floor. Committee reports contain the testimony presented at the hearings, statistics, background data, and a record of members' comments on the proposed legislation. Committee reports and floor statements may be the only record of legislative intent. An advocate should work with committee staff to develop a report that is supportive of the legislation and gives appropriate direction for implementation.

6. The Rules Committee.

The name of this committee may vary from state to state, but the role of the committee basically stays the same. Advocates should be aware of two important functions of the committee. First, the committee schedules the bill for floor consideration; and, secondly, it decides what type of parliamentary procedure or "rule" will govern consideration of the bill on the floor. With respect to the first function, advocates should talk with members of the Rules Committee or their staff to help schedule the bill for floor consideration.

The advocates' role in the second function is even more critical. In imposing a "rule" on a bill, the committee decides whether to allow amendments from the floor, what limits there are on the length of the floor debate, and whether the vote will be a roll call or a yea and nay vote.

A bill may be lost in the rules before it gets to the floor. It simply may not be scheduled. Or it may be scheduled at an inopportune time, and thus the schedule may contribute to its defeat. Even if the bill reaches the floor, the rules may hasten a negative outcome. Unlimited floor debate may result in a destructive filibuster.

7. The floor vote.

Once the bill is approved by the Rules Committee and scheduled for the House or Senate calendar, the bill moves to the floor for debate and ultimate passage. Advocates should have mobilized support for the floor vote long before the bill comes out of committee. However, after a committee success, it is time to solidify that support through the recruitment of legislative allies outside the committee. Leadership support is especially valuable. The positions of the governor and executive branch representatives can be crucial.

Members of an advocacy coalition should visit all key legislators and

write letters to urge support of the bill during the period between committee approval and floor vote. Don't ignore possible opposition. Be prepared for all arguments against the bill. And talk to leading opponents. Even if they cannot be persuaded to vote for the bill, they may be able to explain their opposition, so that counter-arguments can be prepared more thoroughly.

On the day before the floor debate, ask the lead sponsor to circulate a "Dear Colleague" letter to members of the House or Senate, explaining the bill and asking for support. This is a letter that is addressed to all the members of the institution. Its basic elements include the following:

- the bill number and its title,
  the main issues addressed in the bill,
  the importance of the bill to the state,
- the reasons why the sponsor chose to introduce it, and
- a request for votes.

There are several points to remember in preparing for the floor debate. After committee mark up, it may be necessary to provide additional amendments to the bill. If so, prepare the written amendments, advise the lead sponsor of what is needed and solicit his/her advice on how to proceed, and if the sponsor agrees, find a supporting legislator to introduce the "friendly" amendments on the floor.

Always be aware of the potential power of the opposition. Be prepared for "hostile" amendments that may be offered to dilute the effectiveness of the bill. Have counter arguments and amendments ready in case such alternatives are suggested.

An advocate can also prepare floor statements for members to read on the floor of the House or Senate.

Legislative history eventually may determine the effectiveness of the statute. Investigate the types of documentation used for legislative histories in the state. In most states, legislative histories consist of committee reports, transcripts of floor debates, and statements by lead sponsors of the bill or critical amendments.

When the day of the floor debate finally arrives, remember that on most issues, most legislators have decided how to vote before the floor debate begins—or are prepared to follow their leaders' wishes, once the bill is on the floor. The floor debate is most important for bills that have not attracted much attention beforehand. A few practical lessons emanate from this fact.

When advocates are working for a bill, they should try to avoid controversy. When they are working against a bill, they should try to stimulate debate.

Legislators usually have little time to read and research most bills, hence debate strategy should be developed with this in mind. Sponsors and supporters of a bill should try to control the debate. If a close vote is lost, they should try to have the matter "reconsidered." Opponents of the bill will try a similar strategy, so don't think a single successful vote means the case is won. Keep track of the bill throughout the legislative session—until it is finally enacted. Many a bill has been lost after passage in the final legislative days because of a reconsideration.

No matter what the result of the floor debate, let the press and the public know the effect of the decision on the crime victims in the state. Even if the bill was lost, publicity may help bolster support for the next legislative year.

8. Going to conference.

With the exception of Nebraska, which has a one-chamber state legislature, a bill must be approved by both the House and Senate before it can be enrolled and sent to the Governor to be signed into law. Thus, the advocate may have to conduct the process described above concurrently in both bodies, or separately. In either case, the bill(s) may need to be reconciled. The final bill must be passed in exactly the same form in both houses.

Despite the necessity for final reconciliation, don't be surprised if one body works without any interest in what the other is doing—that is common. Sometimes important decisions are made between representatives of each house through party caucuses. If the caucuses are open, advocates should be there; if they are closed, advocates should ask legislative allies for information concerning caucus results.

When similar bills are approved by both houses in different form or with variations in substance, it will go to a conference committee. The function of the conference committee is to resolve the differences between the bills. The conference committee is generally composed of members of the original committees that had jurisdiction over the bill in the House and the Senate. Thus, the advocate should already have a working relationship with these members and their staffs.

During the meetings of the conference committee, the advocate should try to ensure that the most favorable provisions of each version of the bill are maintained.

9. Final vote on the conference report.

Once the bill is approved by the conference and compromise language is worked out, it must go back to both the house and senate for final approval. Again, at this point, advocates should help with final floor statements, prepare additional letters of support and encourage speedy consideration of the bill. If successful, the bill is enrolled and will be sent to the Governor for approval.

10. Executive branch and regulatory advocacy.

The passage of legislation is not the end of an advocate's job. The Governor's signature, agency regulations, appointments, and enforcement all require continued attention. Support for the bill within the Governor's office and state agencies should be developed before the bill is passed. Do not assume that the Governor will sign the bill—there is always the chance for a veto.

Also, remember that administrative regulations can govern the effectiveness of a statute after enactment. Legislation should be designed from the start to be administrated by a supportive agency. Often the advocate is the best judge of what agency that might be. Advocates should be ready to assist with developing guidelines and regulations that will be used by administrative personnel to implement the legislation.

Be aware of regulatory actions that can be used to impede implementation or interfere with legislative intent Such actions may include: delay in developing regulatory guidelines, failure to enforce adequate regulations, construction of ambiguous or misleading definitions, or even assignment of inadequate or underskilled personnel to administrative tasks affecting implementation. Ultimately, there is recourse to appeal negative regulatory actions through legislative oversight or through the court system. But it is usually best to prevent problems early.

Strategies and Skills

There are many strategies and skills that can be employed to help move a bill along the legislative path outlined above. Strategy involves planning and implementing tactical maneuvers that may assist in convincing legislators of the efficacy of a statute or legislative action. Skills are those tools that advocates can learn and use individually in their day-to-day support of legislation.

Advocacy Strategies

It is important to know strategical options and understand some of the forces that may guide an advocate in planning the advocacy effort. Too often in this day of consumerism, advocates think only in terms of grass roots advocacy. While there is no doubt that such a strategy can be extraordinarily effective, there is often a danger that there will be a negative legislative reaction or simply an apathetic public response.

Hence, advocates should analyze the political realities in their state and decide whether or not citizen outcry will be important with the particular issue they are addressing and, if so, when such public response will have most impact. In reviewing such issues, advocates should review other potential strategies as well. The following is an explanation and analysis of three types of strategies, including the organization and implementation of a grass roots campaign.

Targeted Advocacy.

In some states, one individual legislator may be the key to the passage of any legislation in a certain topical area. That legislator may be the chair of a critical committee or simply the legislative expert to whom others turn for advice. Since legislators must vote on so many different types of bills, they often recognize that they cannot do adequate research or background work on everything.

In many cases, the critical legislator may be virtually immune from statewide grass roots pressure and from grass roots opposition on a particular issue in his/her own district. This can occur when the legislator comes from a district where the constituency is very partisan and that legislator represents the dominant party. In other situations, the legislator has represented the district's concerns effectively over a number of years. In still other circumstances, the legislator is well connected with old and extended family ties.

If, for whatever reason, a legislator is the key to the passage of legislation, it is important for the advocate to target that legislator for discussion and persuasion right from the beginning. Indeed, it may be the only strategy necessary to produce a final bill. If this is the case, the advocate should be aware that even if a grass roots campaign is conducted, it may have no effect.

The importance of targeted advocacy can be illustrated both positively and negatively. In one state a chair of the judiciary committee in the state assembly stumbled on the issue of victim rights and virtually passed the legislation single-handedly after being convinced of its efficacy. And in at least three cases in recent years, grass roots campaigns backfired, such that the key legislator who had not been adequately consulted or persuaded became angry with the advocates and killed their victim rights bills in committee.

Silent Advocacy.

Traditional advocacy techniques employed by special interest groups might be categorized as silent advocacy. This strategy does not rely upon the development of massive public opinion in support of legislative change. In fact, in many cases, public opinion might oppose the type of change sought. Instead, silent advocacy is based upon developing a support network of legislators and staff members who rely upon the advocate for advice and information throughout the year in the topic area under concern, and who may support a particular piece of legislation proposed by the advocate because of business friendship as much as because of its legislative merits.

Silent advocacy has been marked historically by great financial support by lobbyists of the politicians who, in turn, vote for their legislation. Political Action Committees have grown up in recent year as a response of such lobbyists to the increasing grass roots organizations. PACs, as they are known in Washington, D.C., serve not only to amass fortunes in support of a particular issue or perspective but also mobilize public opinion through media campaigns and personal appeals by esteemed celebrities.

When advocates who have few financial resources consider silent advocacy, they should address the following issues:

First, silent advocacy takes a great deal of time. Advocates must personally spend hours meeting with legislators and their staff members, at their convenience, to explain and discuss an issue and cajole them into action. And such time must be spent with numerous legislative offices.

Secondly, silent advocacy is most beneficial when advocates do not want to call attention to particular legislative change they may be suggesting. For instance, legislation promoting victim service funding may be very controversial in some states due to economic crises. Advocates may be able to slip a bill into the legislative process without potential opponents even being aware of its existence. (This is not as unlikely as it sounds, since it is difficult to monitor all introduced legislation in any state and since most advocacy groups do not have full time personnel to conduct such monitoring.)

Thirdly, effective silent advocates must be thoroughly prepared with information, background materials, and arguments supporting and opposing their issue.

Fourthly, silent advocacy is most effective when advocates have an alternative plan of grass roots public response ready and available, should the issue become public or controversial.

Grass roots or community-based organizing.

Used correctly, organized citizen support for a bill can be a major tool of legislative advocacy.

As a first step, it is important to identify citizen leaders who might want to become a part of your advocacy network. These volunteers will be useful in contacting other volunteers in telephone trees, generating letters or telegrams to legislators, hosting discussion sessions and the like throughout the state.

Individuals who have been crime victims themselves can be very effective advocates. If they are able to explain what happened to them and the problems they encountered or assistance they received in the aftermath of crime, they often make compelling witnesses for legislative change. However, such victims should only be included in advocacy efforts

f they wish to be involved. And if hey want to provide public testimony, ıey should be given detailed informa- ion on what they might expect in erms of public reaction, a revisiting of heir own emotional turmoil, and possible concerns of family and friends.

Once a core citizens' group has been organized, grass roots advocacy can be pursued in a number of ways. In any case, the lead volunteers should be given information about the issue and taught general advocacy skills. They should be prepared to come to the capital and speak with members representing their district.

In some states, a successful grass roots advocacy effort may not require a large number of individuals. Instead, some citizens' groups have chosen to maintain a skeleton organization with a few hardworking leaders. These leaders identify at least one individual in each legislative district around the state who, in turn, is responsible for identifying at least five individuals in each sub-district (which may be a precinct, county, city, or the like), who, in turn, is responsible for identifying at least five individuals within a smaller section of the sub-district.

When an important legislative issue emerges or is identified, each of these individuals becomes a portion of a communication link to get the word out to the constituencies of each legislator. Telephone calls, letters, and telegrams can be solicited in support of legislation at critical points in the legislative process with relative ease.

Other advocacy groups take a more populist approach to grass roots organization and attempt to recruit as many supporters as possible throughout the state in a continuing effort.

In a populist movement, it is important to keep all members informed about the issue and the progress of the legislative campaign. This helps to keep people interested and active.

Don't mobilize this type of grass roots campaign on highly technical issues. Such issues will confuse and frustrate the citizen activists. Save highly technical discussions for work with staff and key legislators.

Advocate for one issue at a time. Don't confuse legislators or volunteer advocates with a long agenda. If a constituent calls his or her legislator and runs down a list of bills, the information loses its impact.

Whether the grass roots campaign is organized as a skeletal communication network or a populist movement, remember, let volunteer advocates know when the battle is over and thank them whether the battle was won or lost.

Organizing Coalitions.

No matter what strategy an advocate plans in order to promote an issue, coalition building can be useful. Coalitions not only exert pressure through the power of sheer numbers but through the fact that diverse interests have found a common bond in the public interest. Issues gain legitimacy in the eyes of legislators when they have backing from a wide variety of groups and interests.

To identify groups that might want to join a victim oriented coalition, start with those that are most directly affected by the victims issues, not only those already serving victims but prosecutor associations, law enforcement associations, and the like. To expand the coalition, consider groups that could potentially be affected by victims issues, for example, womens' groups, mental health and health organizations, religious institutions, chambers of commerce or labor unions.

Organize coalitions around a limited range of issues. Search for a common denominator issue and use it for a central focus. Do not deviate from that central focus very much or the coalition may become difficult to sustain. Re-evaluate the coalition and the focus, if there is a need to develop support for a new issue. Another coalition can be developed in its support, gaining some new members and losing some previous members.

The key to coalition politics is to maintain consensus and to present a unified front to legislators. Coalitions enhance a number of advocacy activities, such as telephone campaigns, hearings, petition drives, local town meeting campaigns, and so on.

Advocacy Skills

This Bulletin has summarized the importance of understanding legislative procedures and organizing support for the successful passage of legislation. But the advocate also needs personal skills.

Leonard Simon, Director of Public Affairs, the National Conference of Mayors, and adjunct Instructor at George Washington University, has developed a list of critical advocacy tools which he teaches students to remember through the acronym **V.I.S.M.A.R.T.P.A.C.C.** Each letter stands for an important skill for effective advocacy.

V = Victory. Victory is a very important concept for an advocate to understand. It is important to know when an issue is won. It is also important to understand when winning one bill may interfere with or defeat a more important bill on a similar issue. Finally, advocates need to be wary of the temptation to push an issue too hard or for too long, antagonizing their potential supporters in the future.

For example, a group of citizens in one state erected a billboard decrying their state's judiciary committee because it failed, for the third year in a row, to approve a bill of rights for victims. The billboard alienated the members of the committee even further and jeopardized other victims bills that the committee was in the process of approving.

Advocates should also temper their victories. It is wonderful to win an issue and see legislation enacted. However, allow opponents of the issue a chance to save their dignity as well. Actions such as involving an opponent in a signing ceremony, allowing a former opponent to take credit for a certain compromise in committee, or simply deferring to an opponent's wishes on noncritical parts of the legislation are examples of such "face-saving" devices.

Legislative opponents do not go away. If advocates humiliate their opponents during one battle, the opponents may be even more difficult to deal with on the next issue. If opponents are allowed some grace in the final victory, they become supporters next time. And, even if they do not become supporters, if they win the next issue, they may treat those in defeat with equal dignity.

I = Information. Information is the most important tool for an advocate. Advocates should be the source of comprehensive, concise, and accurate information on their issues. The information should be distilled in nontechnical terms so that anyone can understand the important concerns.

While it is important to be as knowledgeable as possible, it is even more important to be honest. Ad-

vocates who do not know the answer to a question should say so. They should not guess or lie. They should tell the person who is inquiring that they will get back to him or her with the correct answer as soon as possible. And they should then follow through on their commitment.

Information should be adapted to the particular state or region involved. The case for the issue should be stated in general terms, but it should relate to the specific locality. Detail to support the issue and answers to technical questions should be available but not used until there is a request for such detail.

S = Staff. Legislative staff members are sometimes considered to be more important than legislators themselves. There are several reasons for this. First, they are the gatekeepers of information and personal access to the legislators. In most cases legislators trust their staff to screen appointments, reading materials, telephone calls, and social engagements. In addition, they rely upon their staff to present them with brief syntheses on important issues and make recommendations. While not all legislators follow staff recommendations, they do take them seriously.

Secondly, staff members have more time to discuss issues than legislators. The time pressures on legislators are onerous. Not only do they have their obligations on the floor of the legislature, but they must meet constituency demands, allocate time for social working meetings, puruse countless pages of written materials, fundraise for their next campaign, and engage in party meetings. Further, most state legislators are part-time lawmakers and must maintain their regular employment as well. (It is for that reason that most state legislators are either lawyers, farmers, teachers, homemakers, or employed in other types of work that allow for more flexible hours.)

Thirdly, staff members often have more knowledge about the legislative process than the legislator. Committee staff members, in particular, may be more informed about committee rules and regulations. A number of factors contribute to this phenomena. Many staff members have been working in the legislature longer than their bosses. This is because they have made a career out of legislative staff work and, when one legislator moves on or is defeated at the polls, they go to work for another legislator. Other staff members have been lobbyists prior to their staff work and bring that information to bear on their current job.

M = Members. Despite the importance of staff, the members of the legislature are the final voice of authority in the passage of legislation. They are the ones who say "yea" or "nay". Since most legislatures are composed of hundreds of members, it is crucial for advocates to recognize the key leaders on any particular issue.

Certain legislators, namely, the state House and Senate leadership, and committee and sub-committee chairmen, should always be the primary focus of advocacy. However, informal leaders should not be neglected and, in some states, may be the most important initial contact.

Consider the impact of party politics on each legislator and the effect of partisanship on the issue at hand. It is important to understand how the issue relates to the party platform in the state. In some states, it is useful to urge the adoption of a plank or clause supporting a victim issue in both party platforms. This can be useful leverage with certain legislators.

Never underestimate the influence a constituent can have with a legislator. Arranging constituent meetings can be one of the most effective ways of communicating with members of the legislature.

Finally, whether working with members of the legislature or their staff, always say thank you for their time and assistance. This may sound simplistic, but many advocates forget such words of appreciation. Even if the legislator is not a supporter, thank him or her for the time it has taken to read a letter or to listen to an explanation. In response to supporters, thank them at each phase of the legislative process. Thank a legislator for being an initial sponsor of the bill. Thank staff members for their work at mark up. Thank committee chairs for the resulting committee reports. Thank legislators their support on the floor vote. Positive feedback to legislators not only reinforces their commitment to the immediate legislation but lays a good basis for future advocacy.

A = Access. Access to decision makers is critical. To advocates with few monetary resources and those unschooled in politics, access may seem unattainable. However, advocates can gain access through coalitions with other established and more powerful groups. Grass roots organizations are used more and more to convince legislators of the need to pay attention to an issue.

And, finally, time is a key to access. Visiting with receptionists or secretaries at a legislative office is not a waste of time. Those individuals can be powerful assets in scheduling or conveying important messages. Establishing oneself as an expert on the victims' issue and keeping legislators informed of important changes at the national level, interesting cases in their district, and special concerns from certain constituents are also avenues to access. Take the time to become an expert. Knowledge draws interest from people who need information. And legislators need information all of the time – for speeches, press releases, publicity, hearings, and voting.

R = Rules. Another important tool that seasoned advocates have come to appreciate is knowing the rules governing state legislatures. Many valuable pieces of legislation and important bills have been lost between committees and the floor due to complicated rulemaking procedures employed by the opposition. Issues can be killed by parliamentary procedures that leave even experienced representatives wondering what just transpired.

T = Timing. Timing means not only when a legislative move is allowed but when it is best to make a legislative move. For example, it is important to know how much time is available in a legislative session, when an advocacy strategy is planned. It is equally important to track that time throughout the session, so that moves to extend the session or to adjourn early do not interfere with the process of a particular piece of legislation.

It is also necessary to know the best time to encourage key votes and the best time to schedule committee hearings. When is a legislator or a staff member most approachable? Certainly, it is not prudent to attempt to explain a victim rights issue during the heat of debate over the state budget. It may be best to attempt to meet with staff during legislative recesses, when

they have more time to talk with you. And it may be important to know what other particular issues a legislative leader has on his/her agenda, so that s/he can be approached when those issues are not in jeopardy.

P = Press. The discussion of timing is related to the use of the media.* The media is a source of growing power in the modern age. A positive mention on a local news show can focus the attention of legislators on a particular issue. A negative mention may change votes.

Treat reporters as professionals who are likely to be interested in victims' issues. Just as the advocate should be a reliable source of information to legislators and their staff, so should they be a primary source of information and comment for the media.

Consider using all media possibilities. For example, write feature stories and submit them to the media, or solicit reporters to help in generating such stories. Write letters to the editor when something appears in a newspaper or is on the radio or television that relates to victim issues. Seek editorial endorsements of legislation, once it's been introduced. Look for opportunities to serve as a weekly columnist, a talk show guest, or provide public service announcements. The more the victim issue is in front of the public, the more legislators can be convinced of its importance. (For more information on developing a media campaign, write for NOVA's Campaign for Victim Rights Kit, which is published annually.)

A = Alternatives. Advocates should always have legislative alternatives to their original suggestions. Legislators operate under the constant pressure of many conflicting issues and needs. They may have to compromise on the victim issue and other concerns. Advocates need to develop positive alternatives and to offer these alternatives rather than arguing for the best of all possible worlds. For example, in Florida, when advocates urged the adoption of a bill of rights for victims a couple of years ago, they also urged the adoption of a separate piece of legislation which guaranteed a victim's right to be present and heard throughout all stages of the judicial proceedings. While they hoped that the latter piece of legislation would be passed, they were not optimistic. However, they thought the bill of rights would have a better chance if both issues were presented, so that they could compromise by accepting only one of the pieces of legislation. Indeed, that is exactly how their strategy worked. The bill of rights was passed. Today, they are working once again on the right to be present and heard.

C = Coalition. The importance of building strong coalitions for effective legislative advocacy efforts has been emphasized in the sections above. Few groups have the necessary political or financial resources to go alone. Joining with other like-minded groups gives added credibility to an issue. Remember, however, that coalitions are only successful if they can present a unified front to legislators.

C = Compromise. Compromise has been referred to in the discussion of alternatives. But it is important to emphasize that few advocates are ever completely happy with the final legislation, because there are always so many small compromises that have to be made in order to get a bill passed. In a democratic system where the majority rules, the minority also represents a considerable constituency. Thus, compromise is often the only way to achieve a final result.

Working with legislatures requires persistence, perspective and lots of plain hard work. Public interest victories come slowly and only after great effort. Advocates should not be discouraged by failures. Everyone experiences them, but everyone can also learn from them. Sometimes losses can actually be wins—getting halfway to a goal in one legislative session can mean starting out farther along next time, because important contacts and friends have been established along the way.

George Bernard Shaw once said, "People are always blaming their circumstance for what they are. I do not believe in circumstances. The people who get on in this world are the people who get up and look for the circumstances they want, and if they cannot find them, make them."

That is the job of the victim advocate, to look for the legislative circumstances they want, and if they cannot find them, with the necessary knowledge and skills, make them.

*Mr. Simon has used the term "press" in his acronym, and so we have included it as the title to this section. However, it is our experience that the use of the term "media" is preferred among radio and television professionals. Hence, we have used that term in the text of this section.

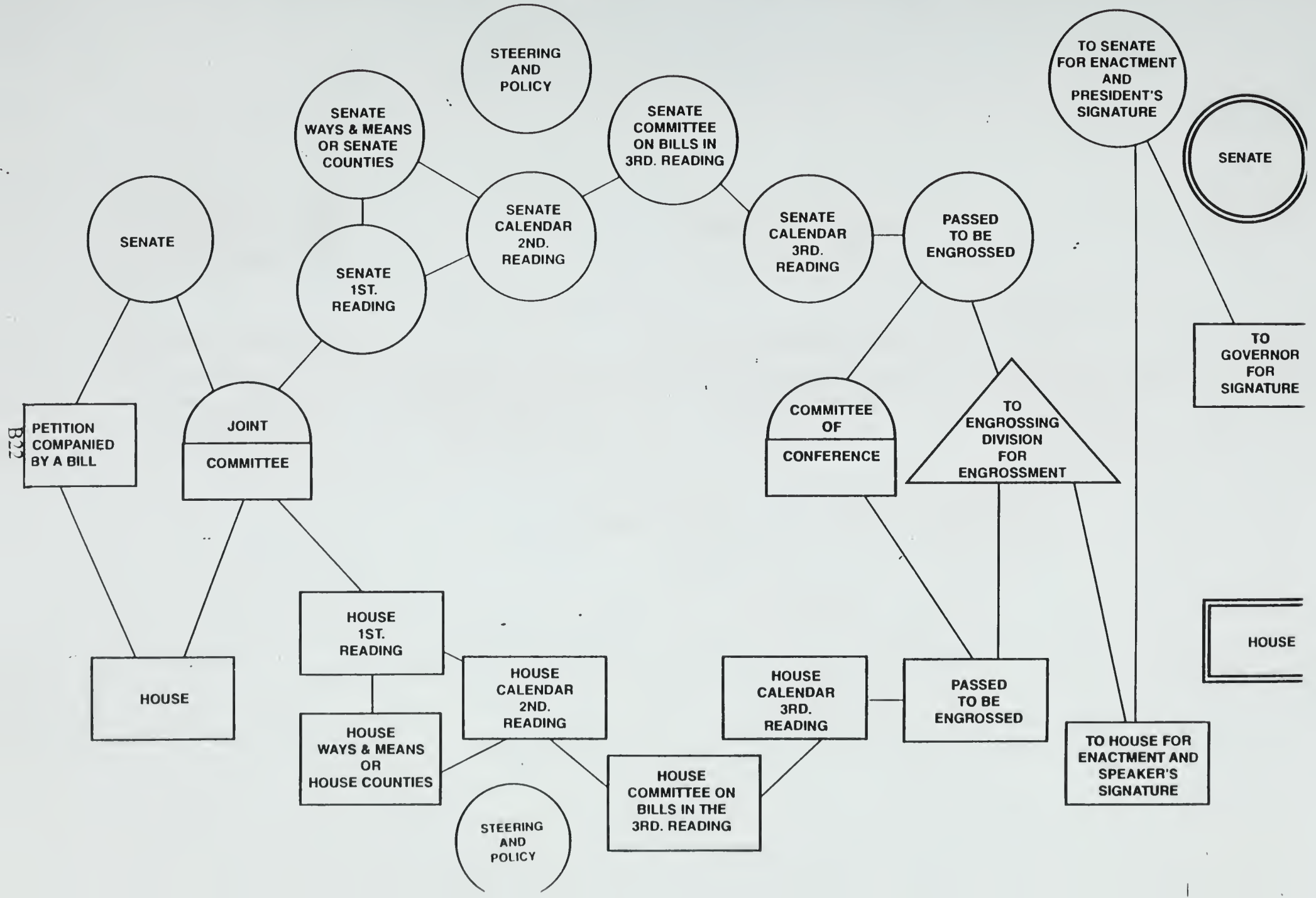
THE NATIONAL ORGANIZATION FOR VICTIM ASSISTANCE (NOVA)

is guided by four purposes: to insure that victims of crime and of similar stark misfortunes are treated with dignity, compassion, and justice; to be of service to programs of victim and witness assistance; to be of assistance to its members; and, as needed, to be of direct assistance to victims.

For information about joining NOVA, contact:
NOVA Membership
717 D Street, N.W.
Washington, D.C. 20004

Executive Director: Marlene A. Young

Law Making in Massachusetts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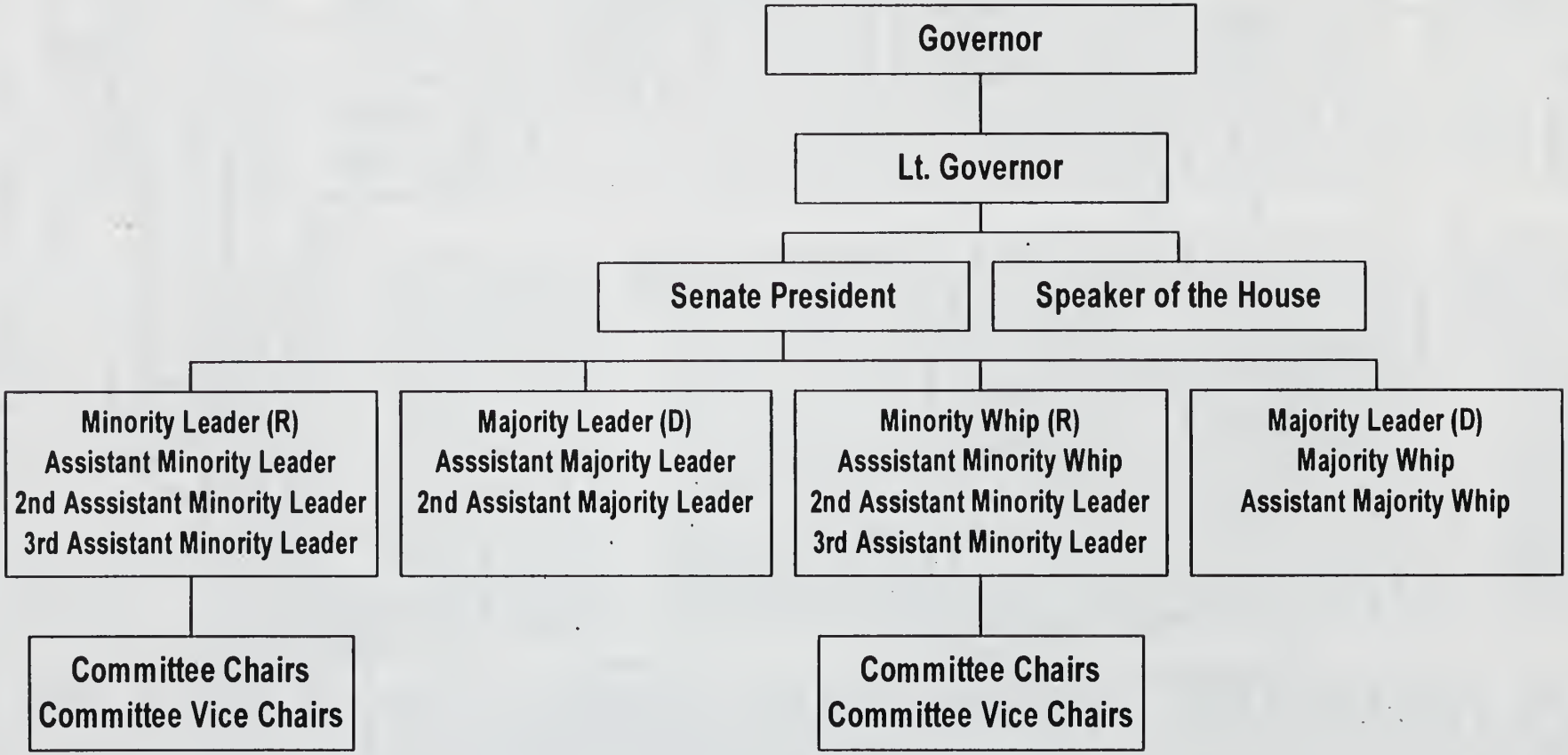
Governor
Lt. Governor
Senate President
Speaker of the House
Minority Leader (R)
Assistant Minority Leader
2nd Asssistant Minority Leader
3rd Assistant Minority Leader
Majority Leader (D)
Asssistant Majority Leader
2nd Assistant Majority Leader
Minority Whip (R)
Asssistant Minority Whip
2nd Assistant Minority Leader
3rd Assistant Minority Leader
Majority Leader (D)
Majority Whip
Assistant Majority Whip
Committee Chairs
Committee Vice Chairs
Committee Chairs
Committee Vice Chairs

Workshop Three
Enhancing Prosecution with New DNA Technologies

Enhancing Prosecution with New DNA Technologies

Moderator: Mary Ellen Doyle, Member
Victim Witness Assistance Board
One Ashburton Place, Room 1101
Boston, MA 02108

Panelists: Barry Brown, Ph.D
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4 years after murder, squad makes a cold case hot

By Brian MacQuarrie
GLOBE STAFF

Early this year, police had slowed to a standstill in their investigation of the 1993 murder of high school senior Jennifer Mullin of Weymouth.

But today, the Plymouth district attorney's office belie has the killer behind bars – due in large measure to the work of the State Police cold-case squad.

Two hundred new interviews and thousands of hours of fresh street work resulted in the arrest Monday of William C. Jewett Jr., a Weymouth man with whom the victim was last seen.

Jewett, 21, is being held without bail in the rape and stangulation of Mullin, a 17-year-old who accepted a ride with the suspect as they left a South Weymouth party in the early hours of Jan. 30, 1993. She was found dead, apparently strangled with a belt, later that day under pine needles in an undeveloped lot in Rockland.

One of Mullin's boots was found near Jewett's home, and the suspect's car was searched after the slaying, but charges were not lodged until a grand jury handed up an indictment this week.

Jewett was arrested as he stepped off a bus at 5:20 p.m. Monday in Jackson Square in Weymouth. His home on Shawmut Avenue had been under surveillance since 4:30 a.m., police said.

Jewett pleaded not guilty at his arraignment yesterday in Plymouth Superior Court in Brockton. He waived his right to bail.

"This is the first arrest of the cold-case unit," said State Police Sergeant Detective Richard Nagle. "That feels terrific."

Nagle said that after the unit, formed eight months ago, was asked to join the investigation by Plymouth District Attorney Michael Sullivan, its members found a case that had lost momentum.

But with the cooperation of Rockland and Weymouth police, the cold-case squad and the district attorney's office set about to reinvigorate the probe.

Nagle declined to specify what turned the case, but said some witnesses discussed the murder more openly after time had passed.

"In most homicides, leads come within 48 to 72 hours," Nagle said. "We had to turn that liability of time into an asset. We had to go out and reinterview a lot of people, some of whom were not as reticent as they once were."

As investigators devoted thousands of hours to the case, 47 witnesses were brought before eight grand jury sessions.

A relative of Jewett's, reached at his home, declined to discuss the case yesterday. "We'll do all our talking and fighting in the courts," the family member said.

Mullin's family, however, held a celebration after learning of the indictment. Nagle said the arrest will help bring closure to relatives who have waited 4½ years for action.

"Old homicides are just as important as the current ones, and every victim's family wants closure in the case," Nagle said. "The tough part is knowing who did it and then proving it. They're two different things."

Jewett, who is employed at a South Boston warehouse and served in the Army, had long been a focus of the investigation.

He initially told police he dropped off Mullin about 200 yards from her home at about 1:30 a.m. But witnesses said they saw a car resembling Jewett's 1978 Chevrolet Malibu twice, about 3 a.m. and 5 a.m., near the Turner Road site where Mullin's body was found.

Police also have said they matched DNA from Jewett with semen found in Mullin's body. But that was not enough to prove murder.

Rockland Sergeant Detective Richard Craig, the first detective to investigate the case, said he is "very relieved for the family."

"Thousands and thousands of hours have been put into this case," Craig said. "Hundreds of people were interviewed, many of them over and over. There was just a whole hell of a lot of leg work, just gumshoe work, beating the streets and talking to people.

"This means a great deal to me."

GLOBE FOOL PHOTO

William C. Jewett Jr., a Weymouth man who gave the victim a ride hours before she was found dead, was arraigned yesterday in Plymouth Superior Court.

SJC upholds taking DNA from convicts, parolees

By Sacha Pfeiffer, Globe Correspondent, 04/14/99

In a decision praised by law enforcement officials and harshly criticized by civil libertarians, the state's highest court ruled yesterday that blood samples may be forcibly taken from convicted criminals to create a statewide DNA database.

The ruling overturned a decision by Superior Court Judge Isaac Borenstein, who said last summer that the state's 1997 DNA collection law was unconstitutional because it violated state and federal protections against unreasonable search and seizure.

But in a 27-page opinion written by Associate Justice John Greaney, the Supreme Judicial Court ruled that "the high government interest in a particularly reliable form of identification outweighs the minimal intrusion of a pinprick."

Supporters of DNA sampling hailed yesterday's decision, saying it would contribute immeasurably to efforts to prosecute criminals, identify possible suspects in unsolved crimes, and deter repeat offenders.

"This is going to go a long way toward helping law enforcement solve a lot of crimes in Massachusetts, as well as throughout New England and the country," said Senator James P. Jajuga, a Methuen Democrat who helped win passage of the legislation. It allows blood samples to be taken from inmates convicted of one of 33 crimes, ranging from burglary to murder, as well as from those released on parole or probation.

"It brings some scientific certainty to the process," added Jajuga, noting that Massachusetts was the 48th state to pass such legislation. "And I think that's been needed."

All 50 states now have laws allowing such databases, and their legality has routinely been upheld by appellate courts, the SJC noted.

DNA testing is based on the premise that the unique genetic code found in a strand of hair, a flake of skin, or a drop of blood, semen, or saliva can conclusively determine a person's identity.

By maintaining a database of blood samples, law enforcement agencies are able to exchange and compare information about criminals and crime scenes. "This is a wonderful tool, and to be given the ability to use it fully is a dramatic breakthrough and brings us a step closer to a modern era of law enforcement," said Attorney General Thomas F. Reilly, one of six state officials named as defendants in the case.

"And it's important to remember that [DNA testing] can be used not only to identify the guilty, but to protect the innocent," Reilly said.

Governor Paul Cellucci praised the decision, saying: "The law can now work as intended. It will be put to use to defend our families and protect our neighborhoods."

Yet the idea of government agencies compiling genetic profiles of select individuals is a chilling prospect to many civil libertarians and prisoners' rights advocates, who denounced yesterday's ruling.

Taking inmates' blood is unnecessarily invasive, argue opponents, particularly when it is done involuntarily. Opponents also note that minorities are incarcerated at much higher rates than whites, raising questions of whether the provision will be used in a racist fashion. And opponents argue that DNA samples could be misused for research and other inappropriate purposes.

"I think the court has trivialized the dangers that are inherent in DNA testing," said John Reinstein of the Civil Liberties Union of Massachusetts, which along with the Committee for Public Counsel Services represented the seven inmates who challenged the law.

"Fingerprinting does not require the state to puncture the surface of the skin to take a sample of one's bodily fluids, and it does not disclose intimate details of one's genetic makeup," Reinstein said. "The court today has taken dangerous steps toward the diminution of security and privacy rights protected by our state and federal constitutions."

The law was also criticized in friend-of-the-court briefs filed by Harvard Law School's Criminal Justice Institute, the Massachusetts Association of Criminal Defense Lawyers, and the Council for Responsible Genetics, among others.

This story ran on page B01 of the Boston Globe on 04/14/99
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State geared for DNA tests

Certified Boston lab already in high demand

By ANN E. DONLAN

A spate of high-profile DNA cases in Massachusetts in recent weeks highlights the dramatic need for genetic testing, which is scheduled to premiere in March at the state police crime laboratory.

It is an investigative tool long overdue in Massachusetts, where the state's 11 district attorneys spent $500,000 in fiscal year 1998 on out-of-state DNA testing.

And despite the lag in offering DNA analysis at the Sudbury state police laboratory, advances in DNA technology have allowed the state [illegible] expenditures on now out[illegible] machinery and techniques, said Carl M. Selavka, state police laboratory director.

"This is just the greatest time for DNA," Selavka said.

Selavka, who came from New York, where he developed and maintained the DNA databank for convicted offenders, is in charge of setting up the state's DNA laboratory.

His mission also includes establishing and maintaining a library of DNA samples from certain convicted prisoners, an endeavor sidetracked by an appeal to the state's highest court.

STAFF PHOTO BY MIKE ADASKAVEG

EVIDENCE: Donald R. Hayes, acting director of the Boston police crime laboratory, draws on blood samples for DNA analysis under a safety hood.

The DNA mission has topped Selavka's agenda since his arrival in July. Among the challenges are hiring and training DNA experts to work in the new DNA laboratory, as well as tedious preparations to win accreditation from the American Society of Crime Laboratory Directors/Laboratory Accreditation Board.

Selavka has worked closely with the Boston police crime laboratory, which recently went through the painstaking certification process for its DNA operation in the new police headquarters in Roxbury.

Since the Boston police crime laboratory's DNA section was accredited in August, DNA has been used in 30 cases, all of them either sexual assaults, rapes or murders.

DNA testing on evidence that was preserved in old homicides and rapes has jump-started stalled investigations, giving police and prosecutors a powerful tool to identify suspects.

District attorneys in Essex and Norfolk counties recently sought DNA testing at two laboratories, one in Maine and the other in Maryland, for two high-profile cases.

In Lawrence, a nursing home employee who gave police a blood sample along with 32 other men was arrested after DNA tests identified him as the suspected rapist who impregnated a comatose patient.

Simultaneous investigations into two separate murder cases in Norfolk County demonstrated the staggering ability of DNA to make or break a case.

DNA was used to indict a Quincy man, Joseph Romano, on a murder charge in the slaying of his wife, Katherine Romano, whose body was never found.

Enough of her DNA was identified on a saw borrowed by her husband to convince a grand jury to indict him for murder.

DNA evidence was also valuable in convicting two men in the kidnapping, rape and murder of Cambridge 10-year-old Jeffrey Curley.

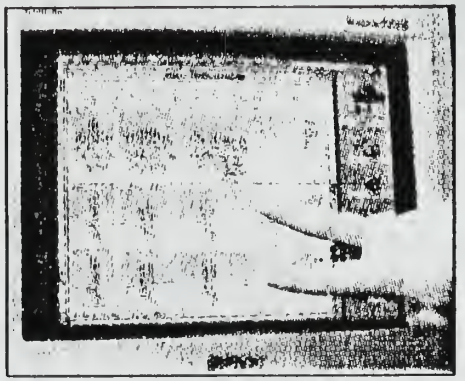


PHOTO BY MIKE ADASKAVEG

NUMBERS GAME: A computer shows results of a DNA test at the Boston police crime laboratory.

But DNA results in another Norfolk County murder case underscored the absolute power of DNA to exclude suspects. DNA tests done on saliva collected from the body of 75-year-old Irene Kennedy excluded her accused killer, Edmund F. Burke, as the source of the male DNA identified in the area of a bite mark.

The DNA results, as well as other forensic testing, have led to Burke's release from jail and the case against him being dropped.

"Whenever (DNA) exonerates or includes, it is very important to give as independent an answer as possible," Selavka said. "You have to let the science speak for itself."

Besides the obvious cost savings of in-house DNA testing, it gives prosecutors greater latitude on which cases will benefit from the powerful evidence.

"We don't have to be as selective in the cases that we're doing DNA testing for," said Donald R. Hayes Jr., acting director of the Boston police crime laboratory. "We're certainly seeing that the amount of evidence that we might be doing DNA testing on has increased."

Selavka projects 1,300 cases of rape, sexual assaults, fatal and nonfatal beatings, stabbings and shootings may require DNA testing statewide this year — and that is in addition to a 3-year backlog of cases already awaiting genetic tests.

The projected volume of cases has led Selavka to conclude the laboratory eventually needs a 20,000-square-foot addition, with a $3 million price tag.

Meanwhile, the Boston police crime lab will soon venture into the hottest area of DNA testing. With the help of a federal grant, the department bought the $70,000 machinery and computers needed for a new type of polymerase chain reaction-based testing called short tandem repeat, or STR testing.

The results of STR tests approach the certainty of fingerprints to identify an individual, which gives prosecutors overwhelming scientific evidence to link someone to a crime. The same type of DNA testing will be done at the state police crime lab, and is under way at the FBI.

"It's more discriminating, so it provides for a higher identification," allowing criminalists to look at 13 genetic markers instead of 7, which had been the standard under the PCR method.

One significant reason why the STR method is better suited to forensic testing is it allows analysis of DNA samples and stains that are smaller and less pure than required for restriction fragment length polymorphism testing, a method as discriminating as STR testing.

For example, only three of the 30 cases that Boston police have used DNA testing on would have provided the quality or quantity needed for the RFLP method.

Senior criminalist Joseph Varlaro of the Boston police crime lab said DNA samples must be "extremely pristine for RFLP to work." And a dime-sized amount of fluid — blood, semen or saliva — is needed for RFLP testing, and the sample must be of "sufficient" quality. That means untainted by bacteria, sunlight or detergents on clothing, Hayes said.

How DNA matching works

Molecules called DNA (deoxyribonucleic acid) are the basic building blocks of the genes that make us what we are. Certain combinations of those molecules are unique to individuals and provide a genetic fingerprint.

1 The original DNA sample comes from evidence from the crime scene — blood samples, hair, bones. This will be compared with the suspect's.

2 The DNA of a suspect is extracted from the nucleus of a cell — usually a white blood cell.

3 Special enzymes are added to cut the DNA molecule at specific points.

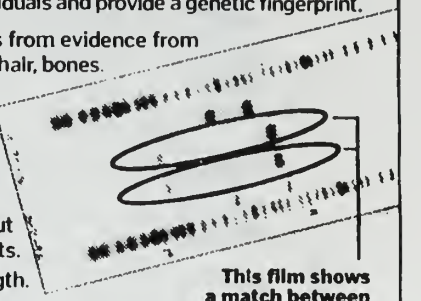
4 Pieces of DNA are sorted by length.

5 Specific unique segments from original DNA are tested for in the new sample.

6 Radioactive or photosensitive markers attach themselves to those specific segments.

7 Film is exposed to the markers, forming dark bands. (Markers create light or radiation, exposing the film.)

8 A match to a suspect's test is considered positive identification.



This film shows a match between suspect and evidence.

Crime scene evidence
Suspect's DNA sample
13 DNA pieces can be scanned. If all match, odds of a false match reach the trillions. This example shows two discrepancies.

GANNETT/STAFF GRAPHIC

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Improving Trauma Response Through Multiple Intervention Strategies

by Larry Bergmann, Ph.D.

Providing mental health services to victims after a major crime has become as expected as the media frenzy that surrounds these incidents. Typically, the people who were affected by the crime were gathered together for group meetings or debriefings. Until recently, these intervention techniques were accepted without much examination. However, there has been a growing concern about the usefulness of this type of intervention to all such victims. This article outlines some of the problems with traditional trauma response interventions after crime victimization and suggests an alternative approach.

Traditional Post-Trauma Intervention Techniques Cannot Meet Needs of all Crime Victims

Researchers and practitioners have noted a number of difficulties with traditional trauma response efforts which focus on group sessions and debriefings. Researchers have reviewed the debriefing literature and noted that there is no significant difference between those who receive and do not receive this intervention. (*See* R. Gist, and S.J. Woodall, *Social Science Versus Social Movements: The Origins and Natural History of Debriefing*, Autraliasian J. of Disaster and Trauma Stud. (1998).) In addition, they argue that there is a stable 5% casu-

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CODIS: The Combined Deoxyribonucleic Acid Index System for DNA Typing

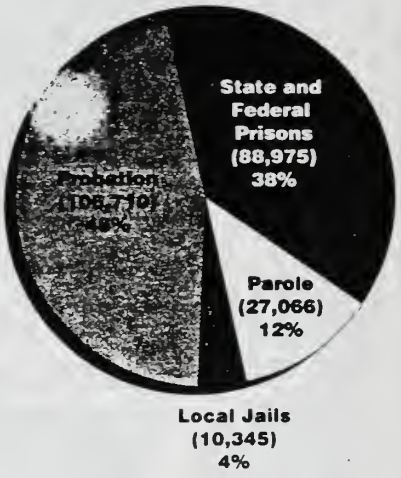
by Patricia Loftus, M.S.N., M.S.F.

According to statistics compiled by the Bureau of Justice Statistics, more than 300,000 sexual assaults occur annually in the United States. (*See* Larry Greenfeld, *Sex Offenses and Offenders*, Bureau of Justice Statistics pub. no. NCJ-183931, 1-3 (1997).) Approximately 234,000 offenders convicted of sexual assault are under the control or care of corrections agencies, and nearly 60% of these sex offenders are under some type of conditional supervision in the community. (*Id.*) (*See* Figure 1.) Individuals convicted of sexual offenses generally return to society after relatively short periods of incarceration. The average period of incarceration served by a convicted rapist is about five years; those incarcerated for other sexual assaults typically serve less than three years. (*Id.*) Sex offenders often commit multiple crimes and biological evidence is often recovered from sex-related crime scenes. By combining forensic technology with computer software applications, the Combined Deoxyribonucleic Acid (DNA) Index System for DNA Typing (CODIS) can assist the law enforcement community in solving violent crimes that would not be solved through other means.

The typing of DNA from biological evidence from sexual assaults is one of the most important developments in forensic science. DNA analysis provides forensic scientists with a scientifically reliable means to eliminate from suspicion individuals falsely associated with a biological sample and to significantly reduce the number of potential contributors. Current DNA technology comprises myriad genetic markers, multiple DNA typing strategies, powerful computers, and

See CODIS, next page

Figure #1
Convicted Sex Offenders: Care Custody, and Control



Source: Sex Offenses and Offenders, Bureau of Justice Statistics (Feb. 1997)

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specialized software. In aggregate, these elements make the development of DNA profiles and the searching of DNA databases relatively quick and easy. Because they can be generated much more rapidly than a decade ago, DNA databases are used to search DNA profiles and records in an increasing number of violent crimes.

Comprehensive DNA Program

After recognizing and demonstrating that DNA typing could support human identification in a forensic setting, the FBI developed a comprehensive DNA program with four major components:

- *Local, State, and Federal Submissions:* The FBI performs DNA analysis on cases submitted by local, state, and federal law enforcement agencies. Since the first case was submitted to the FBI in 1988, the DNA Analysis Unit has performed over 20,000 examinations.
- *Research and Development:* The FBI has a program dedicated to applied research and development of DNA technology. For example, the FBI has pioneered many of the laboratory protocols used in forensic analysis throughout the United States.
- *Information Exchange:* The FBI actively engages in technology transfer by sharing information with other law enforcement agencies through training, standards setting, publication, professional symposia, and technical consultation. To further this effort, the FBI created the Technical Working Group on DNA Analysis Methods (TWGDAM), a collaboration of local, state, and forensic scientists.
- *National Databases:* The FBI created and operates a national database of DNA profiles called the Combined DNA Index System, or CODIS. CODIS helps investigators identify suspects of violent crimes and increases the efficacy of forensic laboratories by providing software to conduct DNA casework and perform statistical calculations.

CODIS merges aspects of forensic science and computer technology to provide investigative leads and solve violent crimes.

CODIS: Combined DNA Index System

CODIS merges aspects of forensic science and computer technology to provide investigative leads and solve violent crimes. To completely facilitate the comparison of DNA profiles nationally, CODIS must be a fully integrated network among crime laboratories. To promote this interchange, CODIS enables local, state, and federal law enforcement crime laboratories to electronically exchange and compare DNA profiles (genetic characteristics that result from forensic DNA analysis), link serial violent crimes, and identify potential suspects by comparing DNA profiles from crime scene evidence to those of convicted offenders.

The mission of CODIS is to facilitate the investigation of violent crimes where biological evidence is recovered. The mission is accomplished through the following initiatives:

- Utilizing leading information technologies to provide software tools for conducting DNA analysis;
- Exchanging information between local, state, and federal law enforcement agencies;
- Implementing improvements in forensic DNA analysis and testing methods, standards, and practices; and

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THE CRIME VICTIMS REPORT™

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- Exploiting advances in biological evidence collection, preservation, and tracking.

Indexes Categorize DNA Information. CODIS is a distributed database that operates on IBM PC compatible microcomputers. DNA examiners rely on CODIS to develop DNA profiles during forensic examinations. CODIS organizes DNA profiles into indexes according to the origin of the sample being analyzed. Information is grouped into the following indexes:

1. *Convicted Offender Index:* This index, used to generate investigative leads in official criminal investigations and missing persons cases and determine whether duplicate records exist in the index (i.e., alibi usage by repeat offenders), contains DNA records from individuals convicted of felony sex crimes and other violent crimes.
2. *Forensic Index:* Generally, this index contains DNA records from cases for which there is no suspect. The DNA records are attributed to individuals derived from lawfully collected specimens obtained during the course of a criminal investigation.
3. *Population File:* These databases, which contain DNA types and allele frequency data from anonymous persons intended to represent major population groups found in the United States, are used to estimate statistical frequencies of DNA profiles. (An allele is an alternate form of a gene or variation. For example, eye colors appear in different alleles producing blue eyes, brown eyes, etc.)

In the future, the following additional indexes will be incorporated into CODIS:

1. *Victims Index:* This index, which will contain DNA records from victims, living or dead, from whom DNA may have been carried away by perpetrators, will be used to search DNA profiles found on, but foreign to, a suspect.
2. *Unidentified Persons Index:* This index, which will contain DNA from individuals whose identities are not known with certainty, includes unidentified body parts, human remains, and DNA from individuals who do not (or cannot) disclose their identity to the police.
3. *Unidentified Persons Reference Index:* This index, which will contain DNA records from missing persons and their close biological relatives, will be searched against the unidentified persons index to identify individuals or body parts.

Identification Information. The DNA identification records in CODIS contain limited information sufficient to enable profile searching. The identification record generally contains the following:

1. A laboratory identifier;
2. A specimen identifier;
3. DNA characteristics; and
4. Information to classify and review the integrity of the DNA record.

CODIS does not store criminal history information, case-related information, or social security numbers.

Searching for Potential Suspects. When a crime laboratory develops a DNA profile through evidence collected from a crime scene, CODIS can be searched for

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Prosecuting Without the Victim

"Alice" (pseudonym) badly wanted to prosecute her husband for the many outrageous and humiliating sexual acts that he subjected her to throughout their marriage. Some of these acts included forcing her to have sex with others and raping her in front of her children. She would rather have died than mentioning these acts in open court. Also, she was terrified of him, and for very good reasons. Not only had he shot at her twice, once grazing her in the arm, but he frequently threatened to kill her mother and sister as well as her if she ever publicized his behavior, left him, or took him to court. And he repeatedly made threats against the children.

Over time the state's child protective agency became involved with the family because the children were acting out. Suspecting far worse abuse than Alice ever told them, the agency went to court and had the judge issue a protective order requiring her husband to stay away from her, the children, and their home. Notwithstanding this order, her husband broke into the house with two of his buddies, and all three brutally gang raped her.

Sperm as Proof of Violation of Order of Protection

Because of her injuries from the gang rape and because identification of some of the rapists would be an issue, the local domestic violence program took Alice to the local hospital. There a forensic rape exam was done on her, documenting for the first time the sexual assaults to which she had been subjected. Based on their finding her husband's sperm in her, the prosecutor was able to successfully prosecute him for violating the order of protection. Furthermore, this was done without her having to be present in court. While her husband could not be prosecuted for the rape without her testimony, as only her testimony could prove her lack of consent, her consent was irrelevant to the felony charge that he violated the order of protection. Alice was delighted that the judge gave him the maximum sentence. Her children have been improving rapidly and the court and state child protective agency subsequently closed their case.

This dramatic case points out a real advantage for women in having forensic exams after being sexually assaulted by their husbands. Similarly, when a defendant's bail, probation or parole requires that he stay away from someone, but he later sexually assaults that person, leaving sperm, hairs or other identifying evidence, such cases should be able to be prosecuted without the victim's testimony.

Alice has since testified in divorce court about the sexual assaults, and the judge not only awarded her sole custody, but gave her husband very limited visitation through monthly letters from him and a monthly photograph of the children, even after he leaves prison. The children are free to write him as often as they want, but so far they have only written him once, to say he should never hurt their mother again. The judge has also allowed her to relocate with the children. They will soon be moving far away, starting a new life. ■

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potential suspects. If the DNA profile assembled from the collected evidence is searched against the forensic index and a match occurs, investigations are linked. Police officers in at least two jurisdictions (or multiple cases in one jurisdiction) coordinate their respective investigations. The laboratories contact each other to validate or refute the match. After a match has been confirmed by qualified DNA analysts, the laboratories may exchange additional information, such as the names and phone numbers of criminal investigators and other case details.

If the first comparison does not produce a match, then the DNA profile is searched against the convicted offender index. Matches resulting from this comparison provide investigators with a potential suspect's identity. In the case of a match against the convicted offender index, the identity and location of the convicted offender is provided.

Local, State, and National CODIS Systems

CODIS is implemented at three levels: local, state, and national. Each tier contains the forensic and convicted offender indexes and the population database file. The Local DNA Index System (LDIS) is available at crime laboratories operated by police departments, sheriff's offices, or state agencies. All forensic DNA records originate at the local level and subsequently are transmitted to the state and national levels. Each state participating in the CODIS program maintains its own State DNA Index System (SDIS) which enables interstate DNA profile comparisons. Each SDIS also links the local and national levels and is typically operated by the agency responsible for maintaining a state's convicted offender DNA database program. The National DNA Index System (NDIS), which is administered by the FBI, is the single central repository of DNA records submitted by participating states.

The 94 crime laboratories performing DNA analysis nationwide exchange information using NDIS, through which CODIS is able to maximize its full potential in crime solving. In October 1998, NDIS became fully operational and all 50 states have been invited to participate. It is anticipated that all of the states will furnish NDIS with the DNA profiles of their convicted offender population. At present, participating state laboratories communicate via telephone lines using secure telephone unit modems for data encryption.

The majority of data stored in CODIS is created and maintained by state and local crime laboratories. (Federal convicted offender records will be created by the FBI.) The foremost innovation of the CODIS program is the creation of a collaborative network among local, state, and federal law enforcement agencies. Through this collaboration, enforcement agencies are able to:

- Establish a national standard for forensic DNA analysis;
- Provide legal guidance to states seeking to establish DNA databases of individuals convicted of violent crimes; and
- Create NDIS to allow interstate comparisons of DNA profiles.

Historically, state and local governments have operated independently. To remove all impediments to standardization, the FBI elected to carry development costs and to provide CODIS software free of charge. Encompassing all states in the program creates a broader pool of profiles to search and promotes compatibility among states. Additionally, through TWGDAM, standards for DNA analysis were developed by peer-consensus. The FBI also provides free help desk support and training. Ultimately, the success of the CODIS program will be measured by the number and nature of crimes it helps to solve.

CODIS and DNA Casework Analysis

The term "DNA casework" includes two classes: cases with a known suspect and cases without a known suspect. The CODIS computer system supports investigations of both classes.

Known Suspect Cases. The first DNA identification for forensic purposes in the United States was generated in 1986 for "known suspect" cases. In this type of case, the forensic laboratory compares the DNA profile of a known suspect to the DNA profile developed from evidence collected at a crime scene. The forensic examiner determines if the suspect's DNA generally matches the evidence DNA by making a "side-by-side" comparison of the profiles. In these "known suspect" cases, computer-based matching using the CODIS system increases the accuracy of the matching process and productivity of the examiner, allowing the laboratory to process more cases than would be possible with manual/visual matching alone.

Unknown Suspect Cases. The second class of DNA casework involves cases in which the police have not developed any suspects. These cases are called "unknown suspect" cases (or "unknown subject" or "unsub" cases). In unknown suspect cases, forensic laboratories attempt to match the DNA profile obtained from the crime scene evidence against DNA profiles from other cases, or against DNA profiles from convicted offenders. These cases also include cases in which a suspect was originally developed, and upon DNA profile comparisons, the suspect is excluded as the source of the evidence. Linking unknown suspect cases together can provide investigators with new information that may lead to the development of a suspect.

In unknown suspect cases, a computerized DNA profile matching system, such as provided by CODIS, is critical. Without a computerized matching system, it would be extremely difficult to search for a match between the profile from a new unknown suspect case and hundreds, if not thousands, of profiles from previous unknown suspect cases. Similarly, effectively searching a profile against the numerous profiles from convicted violent offenders would be implausible without the assistance of computer technology.

Convicted Offender DNA Analysis. The complete coverage of state DNA database laws occurred in 1998 when all 50 states enacted legislation requiring persons convicted of felony sex offenses (and other crimes, depending on the state statute) to provide biological samples for DNA analysis. These samples are analyzed and entered into the CODIS database.

CODIS Success

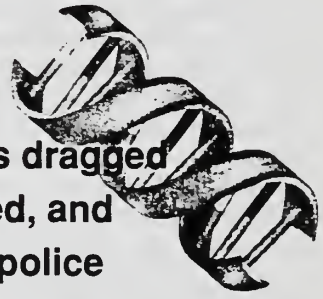
The term "Investigation Aided" refers to a case or investigation that CODIS assisted through a hit. (A hit is a match produced by CODIS that would not otherwise have been found.) By the summer of 1998, the 94 laboratories using CODIS had made 218 forensic hits in which CODIS matched two or more forensic profiles. Additionally, these laboratories made 175 offender hits in which CODIS matched one or more forensic profiles to an offender sample. As a result of these CODIS hits, the Investigation Aided cases numbered 578.

Patricia Lottus, M.S.N., M.S.R. is a clinical forensic nurse specialist and program analyst for the Federal Bureau of Investigation laboratory in Washington, D.C. ■

FORENSIC DNA EVIDENCE:

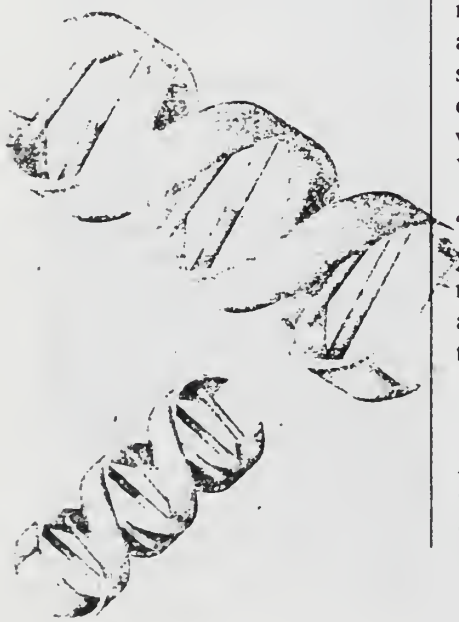
National Commission Explores Its Future

*by Christopher H. Asplen**



One day in 1989 Debbie Smith was dragged from her Virginia home, blindfolded, and repeatedly raped. Her husband, a police officer home from night duty, was asleep upstairs, unaware of the crime. As the rapist fled, he warned his victim, "Remember, I know where you live and I will come back if you tell anyone."

Later Debbie recounted how, for the next six years, she and her family were consumed by terror, pain, and guilt, and frequently suffered nightmares because her assailant remained at large. She even contemplated suicide. Then, in July 1995, everything changed when the man who raped her was identified through the State of Virginia's DNA database.



"For the first time in six and a half years," Debbie testified, "I could feel myself breathe. I felt validated. It was a real name and a real face to go with the nightmare." A sample of her assailant's DNA, left as evidence in the rape, had been routinely placed in the Virginia database after the crime. When he was later convicted of a subsequent serious offense, another sample was taken. Run through the database, it produced a "hit"—a match with the DNA of the unknown man who raped Debbie Smith years earlier. He now had, in her words, a real name and a real face.

Genesis of the Commission

Debbie Smith recounted her experiences before the National Commission on the Future of DNA Evidence. The Commission was created in 1998 at

**Christopher H. Asplen, Assistant U.S. Attorney for the District of Columbia, is Executive Director of the National Commission on the Future of DNA Evidence. Because the Commission is still in deliberation, the opinions expressed here are not necessarily those of the Commission, but rather of the author.*

the request of Attorney General Janet Reno. When she read about the use of DNA to exonerate someone wrongfully convicted of rape and homicide, she became concerned that others might also have been wrongly convicted. The Attorney General then directed the National Institute of Justice (NIJ) to identify how often DNA had exonerated wrongfully convicted defendants. After extensive study, NIJ published a report that presents case studies of 28 inmates for whom DNA analysis was exculpatory.[1]

On learning of the breadth and scope of the issues related to forensic DNA, the Attorney General asked NIJ to establish the Commission as a means to examine the future of DNA evidence and how the Justice Department could encourage its most effective use.

"Postconviction" issues like the one that prompted the Attorney General's interest are just one of several areas of inquiry for the Commission. The other focal areas, for which corresponding working groups have been established, each chaired by a Commissioner (see "The Commission and the Commissioners"), are:

- Crime scene investigation and evidence collection.
- Laboratory funding.
- Legal concerns.
- Research and development.

The experiences of victims of violent crime like Debbie Smith and those wrongfully convicted and incarcerated illustrate the urgency of the issues the Commission faces. In cases such as these, each person's life is irrevocably damaged. In Debbie Smith's case, her assailant had been jailed for another offense only months after her rape, but his DNA sample from that conviction went unanalyzed for years, so he was not identified as her attacker as soon as he was jailed. Instead, as she told the Commission, "I lost six years of my life to fear because of the backlog of DNA samples." There were so many samples to be processed that years went by before her attacker's DNA sample was processed and he was apprehended on the basis of the match. The backlog of samples is still very large.

The mission

The Commission's mandate is to submit recommendations to the Attorney General that will help ensure more effective use of DNA as a crime-fighting tool and foster its use throughout the criminal justice system. The working groups will research and otherwise examine their respective topics. Working groups may develop guidelines for the use of DNA. At the Commission's direction, the products of the working groups will be submitted to the full Commission for approval, amendment, or further discussion and will provide the Commission with background for its recommendations to the Attorney General.

As the Commission enters its second year, NIJ felt it timely to report on why the Commission was established and how it operates, explain its mission and that of the working groups, and elaborate on the issues it is exploring.

Postconviction issues

A convicted individual's continued assertion of innocence is not new to the criminal justice system and in fact is familiar to appeals courts. The use of DNA technology may bring to courtroom proceedings a degree of certitude to which neither the defense nor the prosecution is accustomed. Typically in an appeal, the possibility that the original verdict will be overturned is merely suggested. By contrast, the introduction of DNA evidence after conviction may definitively prove innocence. Because of the high level of certainty made possible by DNA evidence, the decision to oppose or not oppose a motion requesting postconviction relief may now be based on a different foundation of knowledge.

The implications of DNA technology for criminal justice are most evident in postconviction appeals, both in the use of DNA evidence in specific cases and in its broader impact on the criminal justice system. The Commission is examining the use of DNA evidence in previously adjudicated cases in order to develop recommendations about the postconviction process and is exploring the effect that DNA technology may have on the statutes of limitation for filing appeals and charges. The latter issue arises because DNA samples last indefinitely, beyond the periods of time permitted for such filings.

The working group on postconviction issues has developed recommendations that will serve criminal justice system practitioners as guidelines for analyzing cases in which DNA evidence is presented; these recommendations have been approved by the Commission. The guidelines constitute the scientific ground on which to make fully informed decisions and on which to develop the legal approaches needed when DNA may determine the outcome of an appeal. Separate chapters of the guidelines are tailored to the needs of prosecutors, defense attorneys, the judiciary, forensics laboratories, and victim advocates.

Crime scene investigation

The unrealized potential of DNA evidence is evident in its use in crime scene investigations.[2] Historically, the

THE COMMISSION AND THE COMMISSIONERS

The members of the National Commission on the Future of DNA Evidence represent a broad spectrum of the criminal justice system. The Honorable Shirley S. Abrahamson, Chief Justice of the Wisconsin State Supreme Court, is the chair. There also are representatives from prosecution, the defense bar, law enforcement, the scientific community, the medical examiner community, academia, and victims' rights organizations.

To ensure an even broader range of interests are represented on the Commission, experts from various other fields were appointed to the working groups.

National Commission on the Future of DNA Evidence

Commission Membership

Chair

Shirley S. Abrahamson
Chief Justice
Wisconsin State Supreme Court

Members

D[illegible] Adams
Se[illegible] Chief, Scientific Analysis
Federal Bureau of Investigation

Jan S. Bashinski
Chief, Bureau of Forensic Services
California Department of Justice

Geor[illegible] W. Clarke
Deput[illegible] District Attorney
San Diego, California

James Crow
Professor
Department of Genetics
University of Wisconsin
Madison, Wisconsin

Lloyd N. Cutler
Wilmer, Cutler, & Pickering
Washington, D.C.

Joseph H. Davis
Former Director
Miami-Dade Medical Examiner Department

Pau[illegible]ra
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Commonwealth of Virginia

Norman Gahn
Assistant District Attorney
Milwaukee County, Wisconsin

Terrance W. Gainer
Executive Assistant Chief of Police
Washington, D.C., Metropolitan Police Department

Terry G. Hillard
Superintendent of Police
Chicago Police Department

Aaron D. Kennard
Sheriff
Salt Lake County (Utah) Sheriff's Office

Philip Reilly
President and CEO
Shriver Center for Mental Retardation
Harvard University

Ronald S. Reinstein
Supervising Criminal Judge
Maricopa County (Arizona) Superior Court

Darrell L. Sanders
Chief of Police
Frankfort (Illinois) Police Department

Kurt L. Schmoke
Mayor
City of Baltimore

Barry C. Sheck
Professor
Cardozo Law School
New York City

Michael Smith
Professor
University of Wisconsin Law School

Jeffrey E. Thoma
Public Defender
Mendocino County, California

Kathryn M. Turman
Acting Director
Office for Victims of Crime
U.S. Department of Justice

William Webster
Milbank, Tweed, Hadley, & McCloy
Washington, D.C.

James R. Wooley
Assistant U.S. Attorney
Cleveland, Ohio

use of forensic DNA in this country developed on two ends of a spectrum. On one end was a robust laboratory technology that produced results reliable for criminal justice system use. On the other end was the courtroom use of DNA evidence (where the "admissibility wars" were waged). Little or no attention was paid to law enforcement's vital role. Relatively few resources were allocated to educating law enforcement officials, who are responsible for identifying, collecting, and preserving criminal evidence.

A new investigative tool. In the United States, law enforcement's role may have been limited because forensic DNA technology developed primarily as a prosecutorial weapon, not an investigative tool. In the United Kingdom, however, forensic DNA was

first applied in a mass testing of more than 4,500 people in a case in which no one had yet been charged. The aim was to use the DNA samples from all these people to identify the offender. In the United States, by contrast, DNA evidence has been used primarily to confirm the identity of someone already under suspicion. Because in the United States the use of mass testing as an investigative technique raises particular social and legal questions, and because, until recently, there was no database of offenders' DNA samples, there was scant opportunity to harness DNA's ultimate investigative power—its application to cases that have no suspect ("non-suspect cases"). Prosecutors asked law enforcement for DNA samples to prove their case; law enforcement did not use DNA to identify and arrest perpetrators.

The advent of the FBI's Combined DNA Index System (CODIS) offender database created a new paradigm of investigation for law enforcement. (See "CODIS Decoded.") While it made no sense either for financial reasons or investigative purposes to request (and pay for) DNA analysis when a case had no suspect, access to a national database opened up the possibility of investigating just such cases. The use of DNA evidence in these cases represents the ultimate investigative value of the tool, although the application is far from having realized its full potential.

A wider role for law enforcement. The Commission's crime scene investigation working group will identify means and models for law enforcement to harness the full investigative power of DNA technology. As a result of preliminary discussions between the Commissioners and working group members at a recent Commission meeting, the working group was directed to consider and report on three major issues.

The first issue involves law enforcement's use of DNA evidence in nonsuspect cases. What this means is that in such cases investigators would be able to send DNA samples for testing and subsequent comparison with the samples in the offender database.

The second issue involves the projected application of the technology by law enforcement investigators in cases in which there is a suspect. In these cases, DNA testing would be needed to confirm the suspect's presence at the crime scene. Because several recent high-profile trials have heightened public awareness of DNA evidence and raised expectations that it will be presented in court, the number of cases in which DNA is introduced as evidence will increase. When the perpetrator's identity is at issue in a case, biological evidence (blood or semen, for example) that lends itself to DNA testing will be vigorously challenged in court if testing is not performed.

The third issue involves law enforcement's application of the technology to cases that have remained unsolved. It seems that if law enforcement is to take full advantage of DNA testing technology, analysis should be conducted and the databases used in this type of case. Just as the use of databases for nonsuspect cases has created a new investigative paradigm, their use has opened a new avenue of investigation for cases previously thought unsolvable. If during the investigation of a crime committed 5 or even 10 or more years ago a biological sample from the perpetrator was taken, confirmation of his or her identity may be in the evidence locker. Investigators, however, would need to have the training and technology to enable them to reevaluate these cases, identify those that lend themselves to DNA testing, and process them for a possible match in the database.

Laboratory funding

If law enforcement fully integrates DNA technology into the investigative process, there will be major implications for the country's forensic laboratories. Currently, demand on the laboratories to process DNA samples is already outstripping their ability to respond. In addition, the availability of the CODIS offender database system has generated a huge backlog of samples to be tested. Further pressure on the labs comes from the expanding list of crimes defined by the States as requiring DNA samples from convicted offenders. The Commission has begun to provide guidance by first examining the backlog in the CODIS system. The Commission also has directed the working group to explore the broader issue of laboratory capacity in the context of the increased integration of DNA testing throughout the criminal justice system.

The backlog. Most State forensic labs are struggling just to process DNA samples to meet the demand for presenting evidence in the courtroom. Added to this is the CODIS backlog, which now stands at 300,000 to 500,000 samples to be processed. However, the laboratories that must process the samples were not designed for high-volume testing.

Because the State DNA laboratories cannot prioritize and process database samples quickly enough to be run through CODIS soon after the samples are taken, criminals who could be identified remain free to re-offend. Some samples have been stored in laboratory freezers for as long as five years. They were taken upon conviction but remained un-analyzed before the perpetrators' release. Given the recidivistic nature of many of the crimes for which DNA is collected under State statutes, apprehending a perpetrator through CODIS is likely to

mean that more than one crime is prevented. Yet the amount of time it will take to analyze the backlogged samples and store them is estimated at six years. This failure to ensure the timely analysis of samples from released or soon-to-be-released offenders will significantly hinder the effectiveness of the database as a tool to both identify the guilty and exonerate the innocent.

Solving the funding problem. These challenges create a unique opportunity. The tangible, measurable, and identifiable effects on crime prevention that would result from an infusion of financial resources into improving forensic laboratories are a rarity, especially in the criminal justice system.

One possible solution to the funding problem may be outsourcing to private laboratories, an approach already being implemented by several States. Many private forensic and research laboratories are capable of high-volume testing of DNA samples. Because these database samples are better suited to analysis by robotic technologies than samples from criminal cases, the private laboratories, which use these advanced technologies, can process a great many—1,000 to 10,000 per week. Further, the cost per sample would be low—less than $50. At this cost, the backlog could be reduced in less than two years rather than the six years currently projected.[3]

Another alternative is for the States to develop their own capacity for rapid testing. For States able to quickly develop the ability to conduct rapid, high-volume sample analysis "in-house," funding could be allotted, on the basis of per-sample need, to create a robotic system of their own.

Future laboratory capacity. Through the information gathered by the working group on laboratory funding, the Commission will have access to estimates of the resources needed to ensure that the laboratories operate effectively and efficiently.

First, if laboratories are to be effective, they must process crime scene evidence expeditiously. They should not be put in the position of having to prioritize samples to accommodate trial dates or prosecutors' demands. Rather, the laboratories should have resources sufficient to enable them to process samples in a time frame consistent with the effective use of DNA evidence as an investigative tool. While solving this type of case is the true purpose of the database, it may also be the most elusive goal, given the other pressures on the laboratories.

Second, the backlog of offender database samples must be reduced to zero and the labs able to process samples at a speed that both maximizes efficiency and prevents future backlogs. The optimal processing system also assumes prioritizing to ensure that samples from people on probation and parole (who are at risk of re-offending) are tested and entered into the system before samples from people serving lengthy sentences.

Third, laboratories should have the resources to enable them to process old, unsolved cases. If the database

CODIS DECODED

CODIS (Combined DNA Index System) arguably is the most significant advance in criminal investigation of the 20th century. It is a computer database of DNA "profiles" of offenders convicted of serious crimes (such as rape, other sexual assault, and murder) and unknown suspects. Law enforcement agencies at the Federal, State, and local levels take DNA from biological evidence (blood and saliva, for example) gathered in crimes that have no suspect and compare it to the DNA in the "profiles" stored in the CODIS system. The profiles come from data on offenders collected by the States.

The CODIS user can rapidly identify the perpetrator if there is a match between the sample and a stored profile. Matches made among profiles can link crime scenes together, possibly identifying serial offenders. So valuable is the technology that every State has enacted legislation establishing a CODIS database and requiring that DNA from offenders convicted of certain serious crimes be entered into the system.

First launched in 1990 as a pilot program, CODIS was formally authorized by the DNA Identification Act of 1994 (part of the 1994 Crime Act) and placed under the direction of the FBI. The CODIS software currently is installed in 94 forensic laboratories in 41 States and the District of Columbia. The FBI provides the software, together with installation, training, and user support free of charge to State and local law enforcement laboratories performing DNA analysis.

As of this writing, CODIS contains approximately 250,000 DNA profiles. The database in the United Kingdom, where the population is much smaller, contains 300,000 samples. Because the U.S. system still contains a relatively limited number of profiles, CODIS identifies 1 perpetrator for every 1,000 samples recorded. In the United Kingdom, the Forensic Science Service reports between 300 and 500 hits per week. CODIS has thus far recorded more than 400 matches, or "hits."

system is put to this task, many cases previously thought unsolvable will be closed. As law enforcement develops the skills and resources needed to do this, however, the laboratories will have that many more cases to process.

Legal issues

The legal issues working group will identify for the Commission the lessons to be learned about how the legal system approaches a new technology, ensures its reliability, and ultimately integrates it. By studying the history of DNA's integration into the criminal justice system, the group will provide the Commission with methods that could ensure both reliability and public safety.

This group is also providing the Commission with information about numerous issues that arise in other working groups' discussions. One such issue is how to deal with "privacy," given the fact that the DNA profiles of tens of thousands of people are now on file. Of particular interest is the practice of storing offenders' DNA samples. In many instances the sample is stored indefinitely. Anticipated changes in DNA technology development suggest that types of analyses unanticipated at the time the samples were collected may one day be a reality. What are the possibilities and implications of these developments? What legal issues must be considered to ensure public safety while avoiding the erosion of privacy rights?

Statutes of limitations as they apply to filing charges and appeals also will be addressed. DNA technology can be used to investigate crimes committed beyond the period of time defined by many States' statutes of limitation. For this reason, a statute's arbitrary allocation of 5 or 10 years to the investigative process may be unfair to both crime victims and those wrongfully convicted. DNA recovered from a crime committed years ago could today provide the evidence needed for conviction. Similarly, for defendants who were wrongly convicted but who may be exonerated by DNA evidence, time limits on the appeals process established before the technology was developed are hardly appropriate.

Research and development

Through the research and development working group, the Commission will receive information on the future technological capabilities of DNA evidence testing.

There are many issues to be explored in this area. The criminal justice community needs to know what tools may be available in the future to law enforcement officers working crime scenes. Will they be equipped with portable units that they can take to crime scenes to conduct on-scene DNA analysis? If so, will they be able to connect directly from the crime scene to the CODIS database? Will a technology be developed in the near term that permits creating a phenotypic description[4] of a perpetrator based on a DNA sample taken at a crime scene? And as the ability to generate results from ever smaller DNA samples increases, there must be a way to distinguish between samples likely to identify the perpetrator and those likely to mislead investigators.

Laboratory funding depends on future technological development. The commitment to the genetic markers now used in forensic DNA testing (called STR's) exemplifies this.[5] That commitment is based on confidence that STR's will continue to be the most efficient and effective technology for DNA analysis—that there will be no near-term change. Similarly, the implications for forensics of automated DNA typing,[6] microchip-based instrumentation, and increased use of mitochondrial DNA[7] need to be considered in order to evaluate their use in the criminal justice system. In these areas too, funding will depend on the extent to which technology remains state-of-the-art.

The Commission and DNA's future

It is hoped that thorough examination of the multiple issues raised by the use of forensic DNA evidence will promote better application of DNA technology, expedite its use as a crime-fighting tool and, equally important, build public trust in the criminal justice system that uses this technology. The issues the Commission is examining have evolved as the technology and its use have evolved, but, until now, they have not been addressed systematically. Although the Commission may not fully resolve all the issues, the recommendations it will make to the Attorney General can help maximize the potential of forensic DNA to ensure that the guilty are convicted, the innocent are exonerated, and crime is prevented.

For updates on the National Commission on the Future of DNA Evidence, visit the Commission's Web page (http://www.ojp.usdoj.gov/nij/dno/), on the NIJ Web site. The Web page contains the complete transcripts of the Commission's quarterly meetings and the public is welcome to read these.

Commission chair Shirley Abrahamson, Chief Justice of the Wisconsin State Supreme Court (left), and Attorney General Janet Reno

National Commission on the Future of DNA Evidence—First Meeting, March 18, 1998

Darrell L. Sanders, Chief of Police, Frankfort (Illinois) Police Department (left), and Jeffrey E. Thoma, Public Defender, Mendocino County, California

Paul B. Ferrara, Director, Division of Forensic Sciences, Commonwealth of Virginia (left), and Terrance W. Gainer, formerly Director of the Illinois State Police, currently Executive Assistant Chief of Police of the District of Columbia

Terry G. Hillard, Superintendent, Chicago Police Department

Jan S. Bashinski, Chief, Bureau of Forensic Services, California Department of Justice (left), and James Crow, Professor, Department of Genetics, University of Wisconsin, Madison

Norman Gahn, Assistant District Attorney, Milwaukee County (left), and Joseph H. Davis, Former Director, Miami-Dade Medical Examiner Department

See page 19 for a complete list of Commissioners

Notes

1. The NIJ report is *Convicted by Juries, Exonerated by Science: Case Studies in the Use of DNA Evidence to Establish Innocence After Trial,* by Edward Connors, et al., Research Report, Washington, D.C., U.S. Department of Justice, National Institute of Justice, June 1996 (NCJ 161258). Many of the people whose cases are reported here had been on death row; the average time spent in prison for crimes they did not commit was seven years. As of this writing, at least 57 people have been shown by DNA evidence to have been wrongfully convicted.

2. For a full discussion of the issue, see *The Unrealized Potential of DNA Testing,* by Victor Walter Weedn and John W. Hicks, Research in Action, Washington, D.C., U.S. Department of Justice, National Institute of Justice, June 1998 (NCJ 170596).

3. The National Institute of Justice also is contributing to the improvement of State and local DNA laboratories. Through a five-year, $40 million program authorized under the DNA Identification Act of 1994 (part of the 1994 Crime Act), laboratories receive grants to improve their capabilities and create databases that comply with the CODIS system. Thus far, 89 grants and supplemental grants have been awarded in the program's first three years.

4. A phenotype refers to the physical appearance or functional expression of a particular trait found encoded in the genes.

5. STR (short tandem repeats) refers to the region on a DNA strand where a sequence of nucleotides (the building blocks of DNA) is repeated a different number of times in different people. The standard method for DNA typing—RFLP (restriction fragment length polymorphism) is limited because it requires a large amount of relatively undegraded DNA. The RFLP method is being replaced by the more efficient PCR-STR (polymerase chain reaction using short tandem repeat markers).

6. For a discussion, see *Automated DNA Typing: Method of the Future?* Research Preview, Washington, D.C., U.S. Department of Justice, National Institute of Justice, February 1997 (FS 000163).

7. Currently, nuclear DNA (from the cell nucleus) is used more often than mitochondrial DNA (from the mitochondria–other structures in the cell) in evidence testing.

Chapter 106. AN ACT RELATIVE TO THE ENHANCEMENT OF FORENSIC TECHNOLOGY.

Be it enacted, etc., as follows:

SECTION 1. It shall be the policy of the commonwealth to assist local, state and federal criminal justice and law enforcement agencies in: (1) deterring and discovering crimes and recidivistic criminal activity; (2) identifying individuals for, and excluding individuals from, criminal investigation or prosecution; and (3) searching for missing persons. Said policy shall be served by establishing facilities for comparing biological evidence recovered during criminal investigations with biological material obtained from offenders convicted of crimes in the commonwealth.

SECTION 2. Deoxyribonucleic acid, hereinafter referred to as DNA, is located in the nuclei of human cells and encodes genetic information that is the basis of human heredity and forensic identification. DNA is recovered frequently from the scenes of violent crimes against the person, including sexual offenses. The legislature finds that the collection and analysis of DNA samples is an integral part of the investigation and prosecution of criminal offenses and that such technology is an important tool in the defense of individuals charged with criminal offenses in the commonwealth.

SECTION 3. Chapter 6 of the General Laws is hereby amended by inserting after section 178 O, as appearing in the 1996 Official Edition, the following section:-

Section 178P. Whenever a police officer has probable cause to believe that a sex offender has failed to comply with the registration requirements of sections 178C to 178 O, inclusive, such officer shall have the right to arrest such sex offender.

SECTION 4. Section 1 of chapter 22A of the General Laws, as so appearing, is hereby amended by inserting after the definition of "Missing child or ch[illegible]n" the following definition:- "Person", any individual, whether an adult or a child.

SECTION 5. Section 6 of said chapter 22A, as so appearing, is hereby amended by striking out, in lines 1, 3 and 11, the word "child", each time it appears, and inserting in place thereof, in each instance, the following word:- person.

SECTION 6. Said section 6 of said chapter 22A, as so appearing, is hereby further amended by striking out, in line 7, the word "children" and inserting in place thereof the following word:- persons.

SECTION 7. The General Laws are hereby amended by inserting after chapter 22D, as so appearing, the following chapter:-

CHAPTER 22E.
STATE DNA DATABASE.

Section 1. As used in this chapter, the following words shall have the following meanings, unless the context clearly requires otherwise:-

"CODIS" or "combined DNA index system", the Federal Bureau of Investigation's national DNA identification index system which facilitates the storage and exchange of DNA records submitted by state and local criminal justice and law enforcement agencies.

"Colonel", the colonel of state police.

"DNA", deoxyribonucleic acid.

"DNA analysis", DNA typing tests that generate numerical identification information and are obtained from a DNA sample.

"DNA record", DNA information that is derived from a DNA sample and DNA analysis and is stored in the state DNA database or in CODIS, including all records pertaining to DNA analysis.

"DNA sample", biological evidence of any nature that is utilized to conduct DNA analysis.

"Department", the department of state police.

"Director", the director of the crime laboratory within the department of state police.

"FBI", the Federal Bureau of Investigation within the United States department of justice.

"State DNA database", the DNA identification records system maintained and administered by the director.

Section 2. There is hereby established within the department of state police a state DNA database under the direction of the director. The director shall be a person knowledgeable in the field of forensic sciences and shall be paid an annual salary which shall be set by the colonel in consultation with the secretary of public safety and the secretary for administration and finance. Such salary shall be competitive with comparable or similar positions in other jurisdictions. The director shall have responsibility for DNA analysis and the management and administration of the state DNA database.

Section 3. Any person who is convicted of an offense under the provisions of section 1, 13, 13B, 13F, 13H, 14, 15, 16, 17, 18, 18A, 18B, 18C, 22, 22A, 23, 24, 24B or 26 of chapter 265, section 14 or 15 of chapter 266 or section 2, 3, 4A, 4B, 16, 17, 29, 29A, 29B, 35, 35A or 53A of chapter 272 or of an attempt or a conspiracy to commit any of the aforementioned offenses shall submit a DNA sample which shall be collected by a person

authorized pursuant to section 4, to the department within 90 days of such conviction, in accordance with regulations or procedures established by the director. The results of such sample shall become part of the state DNA database. The submission of such DNA sample shall not be stayed pending a sentence appeal, motion for new trial, appeal to an appellate court or other post conviction motion or petition.

Section 4. (a) The director may establish regulations or procedures for the collection of DNA samples, including standards for training and licensing personnel who may collect such samples. Only a physician, registered professional nurse, licensed practical nurse, phlebotomist, health care worker with phlebotomist training or a person licensed and trained by the director shall collect DNA samples pursuant to section 3. No person authorized under this section to collect DNA samples, including blood samples, shall be subject to civil liability for the act of withdrawing blood, or any other act directly related to the taking of a DNA sample; provided, however, that they shall employ recognized medical procedures and comply with all regulations or procedures promulgated by the director for the collection of DNA samples. Duly authorized law enforcement and correction personnel may employ reasonable force to assist in collecting DNA samples in cases where an individual refuses to submit to such collection as required under this chapter; provided, further, that such law enforcement and correction personnel shall not be subject to criminal prosecution or civil liability for the use of such reasonable force.

(b) The cost of preparing, collecting and processing a DNA sample shall be assessed against the person required to submit a DNA sample, unless such person is indigent as defined in section 27A of chapter 261. The cost of preparing, collecting and processing a DNA sample shall be determined by the secretary for administration and finance in consultation with the director and shall be paid to the department and retained by it to offset costs associated with creating, maintaining and administering the state DNA database.

Section 5. The department shall provide all blood sample vials, collection tubes, mailing tubes, other DNA sample collection materials, labels and instructions for the collection of DNA samples pursuant to this chapter.

Section 6. All DNA samples collected pursuant to sections 3 and 4 shall be forwarded to the director for the purpose of DNA analysis. The director shall provide for the receipt and analysis of DNA samples and for the filing and storage of DNA records derived from such DNA analysis in the state DNA database. The director shall promulgate regulations governing the collection, submission, receipt, identification, storage and disposal of DNA samples.

Section 7. The department is hereby authorized to establish such laboratories and facilities within the commonwealth as may be necessary to conduct forensic and DNA analysis. Notwithstanding the provisions of any general or special law to the contrary, the department is hereby authorized to enter into such contracts, agreements or partnerships with governmental or nongovernmental entities, including educational, scientific, medical or not for profit entities, as the director may deem necessary to meet the purposes of this chapter.

Section 8. The director shall establish procedural rules governing the testing and analysis of DNA samples and a quality assurance program, which shall include proficiency standards for laboratories and analysts responsible for performing DNA testing and analysis. Such procedural rules and quality assurance program shall be compatible with the procedural rules and quality assurance program utilized by the FBI and shall establish compatible laboratory techniques, laboratory equipment, supplies, computer software and acceptance criteria for DNA records in CODIS. The director may employ independent forensic laboratories to perform the DNA analysis required under section 3; provided, however, that such laboratories shall comply with the regulations established pursuant to this section and the procedural rules and quality assurance program established pursuant to this section. With respect to any independent forensic laboratory that performs or seeks to perform the DNA analysis required under section 3, the director may audit such laboratory for compliance with such regulations or procedures as may be adopted under this chapter and may revoke such laboratory's right to create and exchange DNA records on the ground that such laboratory has failed to comply with any regulations, procedures, rules or quality assurance programs established pursuant to this section.

Section 9. All DNA records collected pursuant to this chapter shall be confidential and shall not be disclosed to any person or agency unless such disclosure shall be authorized by this chapter. DNA records shall not be stored in a criminal offender record information system operated by the criminal history systems board pursuant to sections 167 to 178, inclusive, of chapter 6.

Section 10. (a) The director shall furnish records in his possession, including DNA records and analysis, to police departments in cities and towns, to the department, to the department of correction, to a sheriff's department, to the parole board or to prosecuting officers within the commonwealth upon request in writing or electronically.

(b) The director shall make DNA records available upon written or electronic request to: (1) local, state and federal criminal justice and law enforcement and prosecuting agencies, including forensic laboratories serving such agencies, for identification purposes in order to further official criminal investigations or prosecutions; provided, however, that any DNA sample obtained directly from a person not otherwise required to provide a DNA sample under this chapter and delivered to the director for comparison with DNA records in the state DNA database shall have been obtained pursuant to a warrant; (2) the FBI for storage and maintenance in CODIS; and (3) any person who has been identified and charged with a criminal offense as a result of a search of DNA records stored in the state DNA database; provided, however, that such access shall be limited to DNA information pertaining to such individual.

(c) The director shall make DNA records available upon written or electronic request to meet such purposes or comply with such statutory obligations as may be required under federal law as a condition to obtaining federal grants or funding.

(d) The director may, in his discretion, make DNA records available to authorized persons or organizations, upon written or electronic request, for the limited purpose of (1) advancing DNA analysis methods and supporting statistical interpretation of DNA analysis,

including development of population databases; provided, however, that personal identifying information shall be removed from DNA records disclosed for such purposes; (2) assisting in the identification of human remains from mass disasters; (3) assisting the identification and recovery of missing persons; and (4) advancing other humanitarian purposes.

Section 11. Any person required to provide a DNA sample pursuant to this chapter and who refuses to provide such DNA sample shall be subject to punishment by a fine of not more than $1,000 or imprisonment in a jail or house of correction for not more than six months or both.

Section 12. Any person who, by virtue of employment or official position, has possession of, or access to, a DNA sample or record or portion thereof contained in the state DNA database and who purposely discloses such record or portion thereof in any manner to any person or agency not authorized to receive such record or portion thereof shall be subject to punishment by a fine of not more than $1,000 or imprisonment in a jail or house of correction for not more than six months or both.

Section 13. Any person who, without proper authorization, willfully obtains a DNA record or a portion thereof contained in the state DNA database shall be subject to punishment by a fine of not more than $1,000 or imprisonment in a jail or house of correction for not more than six months or both.

Section 14. Any person who tampers with or attempts to tamper with a DNA sample or DNA record with the intent to interfere with DNA analysis shall be subject to punishment by a fine of not more than $5,000 or imprisonment in the state prison for not more than five years or in a jail or house of correction for not more than two and a half years or both such fine and imprisonment.

Section 15. Any person whose DNA record has been included in the state DNA database may apply to the superior court to have such record expunged on the grounds that the conviction or judicial determination that resulted in the inclusion of the person's DNA record in the state DNA database has been reversed and the case dismissed; provided, however, that one year shall have elapsed from the date the judgment reversing or dismissing the conviction became final or such person shall have obtained, in writing, authorization from the district attorney that no further prosecution is contemplated under the original offense for which such person was convicted or for which the original judicial determination was entered.

SECTION 8. Any person convicted of any offense listed in section 3 of chapter 22E of the General Laws, who is incarcerated in any prison or house of correction on the effective date of this act, notwithstanding the date of such conviction, shall submit a DNA sample to the department within 90 days of the effective date of this act or prior to release from custody, whichever first occurs. Any person currently on probation or parole as the result of a conviction or judicial determination resulting from a charge of any of the above listed offenses, notwithstanding of the date of such conviction or judicial determination, shall submit a DNA sample to the department within 90 days of the effective date of this act.

Approved September 30, 1997.

515 CMR 1.00: COLLECTION, SUBMISSION, RECEIPT, IDENTIFICATION, STORAGE, AND DISPOSAL OF DNA SAMPLES

Section

1.01: Purpose
1.02: Scope and Applicability
1.03: Definitions
1.04: Collection, Submission, Identification and Transfer of DNA Samples
1.05: Tracking, Receipt, Storage and Disposal of DNA Samples
1.06: Severability

1.01: Purpose

The purpose of 515 CMR 1.00 *et seq.* is to provide rules and regulations governing the collection, submission, receipt, identification, storage and/or disposal of DNA samples for a state DNA database/CODIS pursuant to the terms and provisions of M.G.L. c. 22E.

1.02: Scope and Applicability

515 CMR 1.00 *et seq.* is adopted by the Director of the Massachusetts State Police Crime Laboratory under the authority of M.G.L. c. 22E, §§ 4 and 6 to establish rules and regulations as described in those sections.

1.03: Definitions

CODIS or Combined DNA Index System. The Federal Bureau of Investigation's national DNA identification index system which facilitates the storage and exchange of DNA records submitted by state and local criminal justice and law enforcement agencies.

Crime Laboratory. Massachusetts State Police Crime Laboratory of the Department of State Police.

Department. The Department of State Police.

Director. The Director of the Massachusetts State Police Crime Laboratory.

DNA. Deoxyribonucleic acid.

DNA Analysis. DNA typing tests that generate numerical identification information and are obtained from a DNA sample.

DNA Database. The DNA identification records system maintained and administered by the Director.

DNA Database Blood Collection Kit or Kit. The kit provided by the Department for the collection of DNA samples. This kit is contained in a separate envelope from the outer manila mailing envelope and is labeled as the "DNA Database Blood Collection Kit."

DNA Record. DNA information that is derived from a DNA sample and DNA analysis and is stored in the state DNA database or in CODIS, including all records pertaining to DNA analysis.

DNA Sample. Biological evidence of any nature that is utilized to conduct DNA analysis.

DOC. Department of Corrections.

Evidence Technician. Individual authorized by the Director to perform the duties set forth in 515 CMR 1.00.

FBI. The Federal Bureau of Investigation within the United States Department of Justice.

1.03: continued

FTA. Specialized paper that binds DNA.

HOC. House of Corrections.

1.04: Collection, Submission, Identification and Transfer of DNA Samples

(1) Applicability. Blood samples for DNA typing shall be collected from DOC, Sheriffs, Parole and Probation Departments "in custody" or "probation/parole" offenders as specified in M.G.L. c. 22E.

(2) Unique Identifier. Each offender's DNA sample shall be logged with a unique identifier number.

(3) Collection, Submission, Identification and Transfer of DNA Samples.

(a) All DNA samples obtained for DNA analysis shall be collected using an approved, Massachusetts State Police Crime Laboratory DNA Database Blood Collection Kit as supplied by the Department.

(b) Each DNA Database Blood Collection Kit shall contain all necessary materials for blood collection via finger stick and for proper identification of the offender. The kit shall contain the following items: kit instruction sheet, sterile lancet, plastic specimen bag with moisture absorbing packet, sterile gauze pad, one pair barrier gloves, absorbent alcohol pad, adhesive bandage, pre-numbered DNA Database Information Card, pre-numbered DNA Database Collection Card, security seal, kit shipping seal, and pre-numbered collection kit envelope. The numbers that are pre-printed onto the manila mailing envelope, collection kit envelope, DNA Database Information Card and the DNA Database Collection Card shall be the same number, and shall be numbered sequentially from one kit to the next so that each kit number shall serve as a unique identifier.

(c) For blood collection, all DNA samples shall be collected by approved individuals as specified in M.G.L. c. 22E, § 4(a). Prior to blood collection the kit shall be removed from the manila mailing envelope. The kit shall be used only if the kit envelope seal is intact. The number on the front of the kit envelope shall be checked to ascertain that it corresponds with the number on the front of the manila mailing envelope. The kit may then be unsealed. All components of the kit shall be removed and checked against the inventory list on the instruction sheet to verify that all kit components are present and that the pre-printed numbers on the DNA Database Information Card and the DNA Database Collection Card correspond to the number on the manila mailing envelope and kit envelope.

(d) All information requested on the DNA Database Information Card shall be filled out as completely as possible. This information shall include: the offender's name in full, current address, social security number, date of birth, sex, race, submitting agency, name and signature and agency of person obtaining the blood sample, date, form of positive identification shown by the offender, appropriate space for a rolled right thumb inked fingerprint and the signature of the person taking the fingerprint.

(e) The DNA Blood Collection Card shall be filled out as completely as possible and shall include the following information: race, sex, name of blood collector, signature of blood collector, date and time of sample collection, signature of person taking offender's fingerprint, date and time of fingerprint application, and an appropriate space for a rolled right thumb inked fingerprint.

(f) After the above data are entered on the DNA Database Information Card and the DNA Database Collection Card, standard fingerprint procedures shall be used to roll the offender's inked right thumb onto the cards within the appropriate spaces. The fingerprint will be applied by law enforcement personnel, corrections officers or health care personnel trained by the director or his/her designee for that purpose.

(g) Finger stick blood samples shall be obtained using recognized medical procedures.

(h) Prior to each individual blood collection procedure, personnel performing the collection shall put on barrier gloves. The FTA Blood Collection Paper contained within the DNA Database Collection Card shall not be touched unless the individual collecting the offender's blood is wearing barrier gloves.

1.04: continued

(i) The tip of the offender's finger shall be wiped with an absorbent alcohol pad.
(j) The offender's finger shall be pricked using a sterile, fixed depth lancet.
(k) The offender's finger shall be positioned over one of the four circles printed on the FTA Blood Collection Paper, and the finger shall be milked, allowing two drops of blood to fall onto the FTA paper, within the circle. This procedure will be repeated for the remaining three circles if possible.
(l) A sterile gauze pad shall be used to wipe off any remaining blood from the offender's finger, and an adhesive bandage shall be affixed to the offender's finger.
(m) All used medical supplies (lancet, absorbent alcohol pad, gauze pad, barrier gloves) shall be discarded in compliance with standard medical procedures.
(n) The blood on the FTA Blood Collection Paper shall be allowed to air dry for approximately 30 minutes. The FTA Blood Collection Paper shall not be touched, nor shall it be allowed to come in contact with any other FTA Blood Collection Paper during the drying and packaging stages.
(o) The DNA Database Collection Card containing the FTA Blood Collection Paper shall be placed into the self-sealing plastic specimen bag provided in the kit, and the bag shall be sealed. The moisture absorbing packet shall not be removed from the plastic specimen bag.
(p) The sealed plastic specimen bag containing the DNA Database Collection Card and the FTA Blood Collection Paper shall then be placed into the kit envelope. The kit envelope flap will be moistened and the envelope sealed. The security seal provided in the kit shall then be affixed where indicated on the kit envelope. The security seal shall be dated and initialed.
(q) The sealed kit envelope and the DNA Database Information Card shall be placed in the pre-addressed manila mailing envelope. The manila mailing envelope flap shall be moistened and sealed and the shipping seal included in the kit shall be affixed where indicated.
(r) The manila mailing envelope shall be pre-printed with the mailing address of the Crime Laboratory, Business Reply Mail, postage paid by the Department. The manila mailing envelope shall be conspicuously marked as containing dried blood specimens with a biohazard label.

(4) Submission of DNA Samples. DNA samples, collected in accordance with 515 C[illegible] 1.04(3), shall be submitted to the Crime Laboratory by one of two methods: either in person by approved personnel or via delivery service such as U.S. mail. The manila mailing envelope shall be mailed or delivered to the Crime Laboratory after collection. If the manila mailing envelopes are hand delivered they should be delivered directly to:

Massachusetts State Police Crime Laboratory
59 Horse Pond Road
Sudbury, Massachusetts 01776-9923

(5) Record Keeping. The individual who collects each DNA sample shall provide an accurate, up-to-date list of every DNA sample collected each day of collection. Any failed attempts to collect blood from an offender and the reason for the failure (*e.g.* refusal of offender to submit, failure to keep scheduled appointment) shall also be indicated. The list will include the following information: the kit number, the offender's name, the name of the person collecting the sample and the submitting agency together with any additional data which the Director deems necessary. This information shall be forwarded in the form of an audit sheet to the Director on a daily basis, via both FAX and US mail. If the manila mailing envelopes are hand delivered to the Crime Laboratory the audit sheet shall accompany the manila mailing envelopes being delivered.

(6) Inquiries. Any information pertaining to the use of this kit, supplies, collection, packaging, transporting, and/or shipping of these samples shall be directed to the Crime Laboratory Director.

1.05: Tracking, Receipt, Storage and Disposal of DNA Samples

(1) Procedure for the Evidence Technician.

(a) Upon receipt of a DNA Sample at the Crime Laboratory, the evidence technician will, prior to opening the manila mailing envelope, reference the audit sheet which has been obtained from the collection sites to confirm receipt of the reported collections.

(b) The evidence technician shall open the manila mailing envelope and remove the DNA Database Information Card and the sealed DNA Database Blood Collection Kit envelope. The evidence technician shall open the kit envelope but shall not open the sealed specimen bag. The evidence technician shall discern the DNA Database Collection Card number by viewing through the clear plastic of the sealed specimen bag to ensure that such identifying number is the same number as that on the kit envelope, the DNA Database Information Card, and the manila mailing envelope.

(c) All DNA Database Collection Cards must be received in a sealed specimen bag. If received in an unsealed condition, this shall be noted in an Incident Log, and a repeat sample shall be obtained.

(d) The Director will be notified of any discrepancies with respect to the agreement of kit numbers, verification of fingerprints, or for any other reason that a sample appears unacceptable. Any irregularity or discrepancy shall be noted in an Incident Log and the Director shall be notified. The Director shall take appropriate action in accordance with standard operating procedures.

(e) The evidence technician shall use the information provided in the DNA Database Information Card to record the following information: the date the specimen is collected and the date received, the kit number, and the submitting agency (DOC, HOC, Probation, or Parole)and the last name, first name, and middle initial, date of birth and social security number of the offender.

(2) Handling and Storage of Sealed Specimen Bags.

(a) The sealed specimen bags containing the DNA Database Collection Cards shall be stored in a dedicated storage area within the Crime Laboratory. Access to the sealed bags and to the storage area shall be limited to authorized personnel.

(b) Any access to or removal/return of the sealed specimen bags shall be documented using standard chain of custody procedures.

(c) Only authorized personnel shall open a sealed specimen bag and shall initial and date the broken seal and shall reseal the specimen bag in accordance with standard forensic operating procedures.

(3) Handling and Storage of Data Information Cards.

(a) The DNA Database Information Cards shall be stored in a secured designated area and access to these cards shall be limited to authorized personnel.

(b) The DNA Database Information Cards may be examined for quality control purposes (including evaluation of fingerprint quality).

(c) The DNA Database Information Cards may be examined by a qualified fingerprint examiner to verify the identity of the offender.

(4) Disposal of DNA Samples. DNA samples on FTA Blood Collection Paper, DNA Database Collection Cards and DNA Database Identification Cards shall be stored indefinitely in a secure storage area unless otherwise required, as specified in M.G.L. c. 22E, § 15.

1.06: Severability

If any article, section, subsection, sentence, clause or phrase of 515 CMR 1.00 *et seq.* is for any reason determined to be unconstitutional, contrary to statute, in excess of authority, or otherwise inoperative, such determination shall not affect the validity of any other article, section, subsection, sentence, clause or phrase of 515 CMR 1.00 *et seq.*

REGULATORY AUTHORITY

515 CMR 1.00: M.G.L. c. 22E, §§ 4 and 6.

515 CMR 2.00: TESTING AND ANALYSIS, QUALITY ASSURANCE, COMPUTERIZED STORAGE, RETRIEVAL, AND DISSEMINATION FOR THE STATE DNA DATABASE

Section

2.01: Purpose
2.02: Scope and Applicability
2.03: Definitions
2.04: Forensic DNA Testing and Analysis
2.05: Quality Assurance
2.06: Verification Analysis
2.07: Security Features Preventing Unauthorized Access
2.08: Prevention of Illegal Disclosures
2.09: Restriction of Access to Information Systems
2.10: Inquiry, Update or Destruction of Records
2.11: Systems' Safeguard Certification
2.12: Right of Subjects to Access and Review Records
2.13: Use and Dissemination Agreements
2.14: Mutual Exchange, Use and Storage of DNA Records
2.15: Expungement of DNA Records
2.16: Severability

2.01: Purpose

The purpose of 515 CMR 2.00 *et seq.* is to provide rules and regulations governing technical specifications for the testing and analysis of blood samples, quality assurance, and computerized storage, retrieval, and dissemination of DNA profiles in the Massachusetts DNA Database, pursuant to the terms and provisions of M.G.L. c. 22E.

2.02: Scope and Applicability

The Director of the Massachusetts State Police Crime Laboratory, under the authority of M.G.L. c. 22E, adopts 515 CMR 2.00 *et seq.* to establish rules and regulations as described in that statute.

2.03: Definitions

AFIS. Automated Fingerprint Identification System, which is a computerized database allowing for the rapid search, retrieval and comparison of fingerprints on record at the Department with those fingerprints obtained from other sources.

Allele. One of the possible alternate forms of the DNA residing at a particular genetic locus; different alleles of STR loci are distinguished by having repetitive regions that differ in length.

ASCLD/LAB. The American Society of Crime Laboratory Directors/Laboratory Accreditation Board. Current ASCLD/LAB accreditation guidelines are contained in the most recent edition of the ASCLD/LAB Manual.

Casework Evidence DNA profile. That DNA profile of undetermined origin generated by the testing of physical evidence.

CODIS/Combined DNA Index System. The Federal Bureau of Investigation's national DNA identification index system which facilitates the storage and exchange of DNA records submitted by state and local criminal justice and law enforcement agencies.

Positive Control Sample. A reference DNA sample available from the National Institute for Standards and Technology for which the DNA STR profile is known, and which is used to demonstrate acceptable performance of DNA STR tests.

2.03: continued

Negative Control. A specimen included in a batch of specimens which, when tested using DNA testing methods, should give rise to negative test results.

Negative Reagent Blank. A negative control sample containing all testing reagents without added DNA, which is used to detect DNA contamination of any reagent during this testing.

SDIS. As developed by the FBI, refers to the State DNA Index System, and is comprised of uploaded casework ("forensic") and convicted offender DNA records, and DNA records for missing persons.

SDIS Index Custodian. An employee of the Department responsible for, among other duties, maintaining the SDIS, fulfilling technical requirements of CODIS, and proper operation of the computer hardware on which the DNA Database resides. The SDIS Index Custodian and Database Coordinator may be the same person.

STR/Short Tandem Repeat. A form of testing which provides DNA profiles for loci which contain simple DNA unit repeats.

TWGDAM. Technical Working Group on DNA Analysis Methods within the FBI.

2.04: Forensic DNA Testing and Analysis

(1) STR Testing. The DNA Database shall be comprised of data generated from STR testing. The specific tests to be adopted for such use shall include all STR loci approved for use by the Director. The FBI-sponsored Short Tandem Repeat (STR) Standardization Project's set of core loci, required for participation in NDIS, is required for inclusion of a DNA profile for a convicted offender in the DNA Database.

(2) Analysis. Forensic DNA profiles to be maintained in the DNA Database must be comprised of information for at least six of the set of core loci. This requirement for a minimum of six loci applies only to those forensic DNA profiles which the Crime Laboratory desires to have maintained in the forensic index of the DNA Database. The requirements for a minimum number of loci needed to perform a casework search of the DNA Database are set forth herein at 515 CMR 2.14. The Crime Laboratory shall only add to the DNA Database Casework Evidence DNA Profiles, Convicted Offender DNA profiles, or profiles generated from analyses of DNA recovered from unidentified human remains.

2.05: Quality Assurance

Quality Assurance will be accomplished through compliance with laboratory accreditation standards as promulgated by the FBI's TWGDAM, pursuant to 42 U.S.C. § 13132(b), as updated.

2.06: Verification Analysis

(1) Positive Control Sample. In addition to compliance with TWGDAM standards, accuracy and completeness of all DNA records maintained as part of the DNA Database will be assured through compliance by the Crime Laboratory with the requirements for submission of a positive control sample with each profile or group of profiles. Each DNA profile (for either convicted offender or forensic samples) must be associated with a positive control sample. Before STR data may be entered into the DNA Database, the SDIS Index Custodian shall verify the affiliated positive control values against the acceptable values. The positive acceptability values applied shall be those determined and approved by the Director. In addition, the Crime Laboratory must certify that each DNA profile is associated with two negative controls (Negative Amplification Blank and Negative Reagent Blank) for which no activity was observed during analysis.

(2) Rejection. If the positive control values are not acceptable, the SDIS Index Custodian shall notify the Database Coordinator who shall notify the agency from which the DNA data was submitted. Rejection of positive control values shall be recorded in a Positive Control Verification Log in a form prescribed by the Director.

2.07: Security Features Preventing Unauthorized Access

(1) Security Features. The server on which the DNA Database resides shall be located in a secure area to minimize unauthorized physical access. The Crime Laboratory shall choose software and hardware designs which prevent unauthorized access to DNA records, and must have a written Information Systems Plan which specifies the architecture of the laboratory's computer hardware and the structure of security features comprising the access control component of the computer software employed. The Information Systems Plan must demonstrate that an electronic audit trail is maintained for activities related to the entering or editing of DNA records.

(2) Systems Plan. A final Information Systems Plan shall be submitted by the Crime Laboratory for review and approval by the Department prior to the laboratory implementing the DNA Database. The Department shall determine the acceptability of the Information Systems Plan.

(3) Participation in CODIS. The Information Systems Plan components must be designed and applied in such a way as to allow the Crime Laboratory to participate in the federal CODIS program.

2.08: Prevention of Illegal Disclosures

(1) Annual Audit. At least once per year, an audit of the Crime Laboratory will be conducted by the Department to assure that no illegal disclosures of DNA records have taken place. Each audit will consist of administrative review of a random group of at least 10% of the Crime Laboratory's DNA Database search requests generated during the period since the last audit.

(2) Audit Parameters. This audit will verify that all necessary documents required for accessing and controlling DNA records and their associated information have been appropriately completed. These documents include, but are not limited to: use and dissemination agreements between the Crime Laboratory and user agencies or the Department; search request forms; and search result forms. The Department may develop a standardized audit checklist to assist in completion of the required audits.

2.09: Restriction of Access to Information Systems

Access to record information system facilities, systems operating environments and data file contents (whether while in use or when stored in a media library) shall be restricted to authorized personnel only. These restrictions shall be assured through compliance by the laboratory with specific laboratory accreditation criteria of the current ASCLD/LAB manual governing security.

2.10: Inquiry, Update or Destruction of Records

(1) Restrictions of Access. Inquiries, updates, or destruction of DNA records in the DNA Database shall only be made by authorized sources of inquiry, update, or destruction. Inquiries related to DNA records in the DNA Database may be accepted only from a subject of the DNA Database (see 515 CMR 2.12); an agency authorized to make such inquiry pursuant to a properly executed use and dissemination agreement (see 515 CMR 2.13); or the FBI (see 515 CMR 2.14).

(2) Record keeping. Update or destruction of records shall only be made by an authorized agent of the Crime Laboratory or its designee. Any update to, or destruction of, a DNA record in the DNA Database shall be recorded in a log following an electronic or hard copy form prescribed by the Director.

2.11: Systems' Safeguard Certification

(1) Certification. Operational programs shall be used to detect and store for the output of the Department or its designee all unauthorized attempts to penetrate the DNA Database. The Department shall certify that the DNA Database hardware and software architecture has been appropriately designed, implemented and safeguarded to eliminate the realistic chance that such unauthorized attempts to penetrate the DNA Database could go undetected. This certification shall be made based on conformance of the DNA Database with all appropriate portions of appropriate CODIS standards.

2.11: continued

(2) Record keeping. The Department shall maintain the certification in a file with the written Information Systems Plan (see 515 CMR 2.07). A current certification must be on file at the Department at all times.

2.12: Right of Subjects to Access and Review Records

(1) Subject Request for Access. All requests for access to and review of records relating to a subject of the DNA Database, by such subject, will be reviewed on a case-by-case basis by the Director. In reviewing and responding to the request, the following steps shall be followed:

(a) The subject must provide in writing his/her name; any aliases used; Date of Birth; Social Security Number; Sex; Race; Date of sentence for the index offense (if known); the jurisdiction of the Court which sentenced the subject (if known); imprints of the right thumbprint having sufficient clarity to allow for AFIS processing; a passport-sized color photograph taken within the past 12 months; current address; and current phone number (if available). This information must be submitted under the subject's signature and seal of a registered Notary with the following authentication statement: "I [name] on oath depose and state that the information I am providing to the Director of the Massachusetts State Police Crime Laboratory regarding my identity is true and accurate."

(b) The Director will verify whether a blood specimen was ever collected from an individual corresponding to such information provided in 515 CMR 2.12(a). If needed, the Director shall use other computerized databases within the authority of or available to the Department to assist in fulfilling the subject's request.

(c) If no record is found using this information, or if there is any discrepancy discovered in the information submitted by the subject in the request, no information related to the DNA Database will be provided to the subject. The subject will be notified of this decision by the Director in writing within 30 days, by certified or registered mail, return receipt requested.

(d) If a record is found for the identified subject in the DNA Database and no discrepancies are identified in the submitted information, a photocopy of the DNA Database submission form and the results of the DNA analysis for the subject will be noted. The Director will forward this information with a written letter of authentication within 30 days, by certified or registered mail, return receipt requested.

(2) Appeal. If, due to discrepancies in the information submitted by the subject in the request, DNA records and related information are not provided to the subject by the Director, the subject is allowed to appeal the decision. In order to appeal the Director's decision, the subject must provide, in writing and under signature and the seal of a registered Notary, the nature of the subject's disagreement with the Director's decision. This appeal document shall be submitted to the Department, which shall take appropriate action to review the merits of the appeal and present a final decision on the appeal in writing within a reasonable period. In the event such decision reverses or modifies that of the Director, the Department shall require that appropriate action be taken with respect to the subject's record.

2.13: Use and Dissemination Agreements

(1) Authorized Agencies. Access to the DNA Database shall be granted to an agency authorized to have such access, pursuant only to a written use and dissemination agreement. As long as consistent with 42 U.S.C. § 14132, stored DNA samples and DNA analyses can be disclosed only:

(a) to criminal justice agencies for law enforcement identification purposes, which shall include (at the discretion of the Director) to assist the identification of human remains from mass disasters or to identify whether such remains are from those of a missing person, upon written or electronic request to the Director;

(b) in judicial proceedings, if otherwise admissible pursuant to applicable statutes or rules;

(c) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged; and

(d) if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

2.13: continued

(2) Record keeping. A copy of each current use and dissemination agreement shall be filed with the Crime Laboratory and maintained in a file for each participant agency at all times. The form of the agreements shall be determined by the Department.

(3) Requirement in the Use and Dissemination Agreement. The use and dissemination agreement shall specify:

(a) Duties of the Director to provide the requested access and information to authorized parties;

(b) Duties of the user agency to receive, store and use all information covered by the agreement in compliance with all applicable State and federal laws and regulations;

(c) Duties of the user agency to familiarize all personnel and adhere to all regulations governing the receipt, storage and use of all information covered in the agreement;

(d) Duties of the user agency to maintain records that support and justify inquiries and requests for DNA Database searches, and make these records available to the Department during periodic audits performed by the Department;

(e) Prohibitions on redisclosure by the user agency of any information obtained from the DNA Database to any unauthorized agency or person;

(f) Specific policy for suspension of access, cancellation of access and/or fines for any violations of the terms and conditions of the use and dissemination agreement by a user agency, its employees or agents, and a policy for reinstating access or service by the Department only after the Department is satisfied that the causes of all violations have been eliminated;

(g) Specific instructions allowing termination by either party of the agreement for any reason, with 30 days notice; and

(h) Notice that the agreement shall take effect only after officials of the Crime Laboratory and user agency having both the administrative and legal authority to bind the parties to the terms and conditions of the agreement have signed the use and dissemination agreement.

2.14: Mutual Exchange, Use and Storage of DNA Records

(1) Mutual Exchange, Use and Storage. Mutual Exchange, Use and Storage of DNA records within the DNA Database with the system of DNA identification by the FBI shall be allowed, provided that:

(a) The Department determines that such exchange, use and storage are consistent with the provision of applicable provisions of Massachusetts law;

(b) Applicable requirements enumerated within 515 CMR 2.04 through 2.15 have been met; and

(c) A memorandum of understanding has been executed between the Director and the federal CODIS program administrator.

(2) Loci Requirements. For purposes of searches of the DNA Database, a minimum of four loci shall be provided by a laboratory or other authorized agency requesting a casework (forensic) search against the DNA Database. Notwithstanding this requirement, the laboratory or other authorized agency may, at its discretion, request that a search be performed using fewer loci if there are scientific reasons which support using fewer than four loci in a particular case, including but not limited to the apparent presence of mixtures, sample degradation, limited sample availability, or the possible involvement of relatives. The opinion that such "scientific reason(s)" are operative in a case must be affirmed on the search request form whenever fewer than four loci are provided with a casework search request.

2.15: Expungement of DNA Records

(1) Expungement. Upon receipt of a court order pursuant to M.G.L. c. 22E, § 15, with respect to a subject whose DNA record resides in the DNA Database such record may be expunged in accordance with M.G.L. c. 22E, § 15. If the Director is so notified:

(a) The Director shall verify whether a blood specimen was ever collected from an individual with personal identifying data which corresponds with information provided in 515 CMR 2.12(1)(a). If needed, the Director shall use other computerized databases within the authority of, or available to, the Director to assist in fulfilling the subject's request.

Workshop Four
Truth in Sentencing: Where Does It Stand?

Truth in Sentencing: Where Does It Stand?

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COMPUTATION OF SENTENCE UNDER THE NEW "TRUTH IN SENTENCING" LAW

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INTRODUCTION

On January 12, 1994, Governor Weld signed into law An Act to Promote the Effective Management of the Criminal Justice System. St. 1993, c. 432. This law produces what is probably the most sweeping revision of sentencing law in Massachusetts history and is certainly the most significant change since the introduction of statutory good time more than fifty years ago.

The so-called "Truth in Sentencing" provisions of the new law will have a significant impact on the execution of sentences in Massachusetts.

This analysis explains some of the changes which will occur in the execution of sentences under the new law although it does not address the provisions of the bill concerned with the creation of a Sentencing Commission or any potential changes which may be brought about at a later date by the adoption of sentencing guidelines. Numerous additional changes in the imposition and execution of sentences may occur if sentencing guidelines are enacted into law after they are proposed by the commission.

I. CHANGES AFFECTING CRIMES COMMITTED AFTER JUNE 30, 1994

The "Truth in Sentencing" provisions make several major changes in the execution of sentences which apply to crimes committed after June 30, 1994:

1. Statutory Good Time is eliminated for all offenses. St. 1993, c. 432, § 10.

2. "Concord" sentences to the state reformatory are eliminated. St. 1993, c. 432, §§ 14-15, 17-20.

3. Parole Eligibility for state sentences is set at the minimum term of each sentence, subject only to reduction by earned good time. Parole eligibility at one-third or two-thirds of the minimum term is eliminated. St. 1993, c. 432, § 11.

4. Suspended and partially suspended (split) state prison sentences are eliminated.[1]

The minimum term of a state prison sentence is reduced to not less than one year (as opposed to the current minimum of two and one-half years).[2]

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[1] The abolition of suspended and split state prison sentences is contained in the statute governing parole eligibility for state sentences, G. L. c. 127, § 133, as amended by St. 1993, c. 432, § 11, last sentence, but the new act has not modified the statute governing the suspension of sentences, G. L. c. 279, §§ 1, 1A. As a result, it seems inevitable that the abolition of suspended and split sentences will be challenged.

[2] The bill amends G. L. c. 279, § 24 (which establishes the basic parameters of a state prison sentence) by repealing the existing section and adding

II. STATE SENTENCES

In Massachusetts, all state sentences will have a minimum term and a maximum term, unless an inmate is sentenced for life or as a habitual criminal. The minimum term is used to determine parole eligibility, while the maximum term is used to determine discharge.

Discharge. Under both the old and new sentencing systems, an inmate is discharged from his sentence at the expiration of his term, less any statutory or earned good time. Under the new system none of the reduction will be attributable to statutory good time. Under the old system all sentences which have a finite maximum term are eligible to have the maximum term reduced by statutory good time, except for most sex offenses, crimes committed while confined and certain "mandatory" sentences.[3]

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a new § 24. St. 1993, c. 432, § 16. This section of the bill is the only sentencing provision which amends the General Laws and takes effect immediately (April 12, 1994). The new § 24 provides that "where an alternative sentence to a house of correction is permitted for the offense, a minimum state prison term may not be less than one year." But, where a house of correction sentence is not allowed, there is no limitation expressed on the court's discretion in setting the minimum term.

[3] Under the old system, all sentences which have a maximum term (i.e., all sentences other than life sentences) are eligible to have the maximum term reduced by statutory good time, except for sex offenses (c.265, §§ 13B, 22, 22A, 23, 24, and 24B; and c.272, §§ 17, 35, and 35A) and crimes committed while confined. Certain "mandatory" sentences cannot be reduced below a specified mandatory term: c.90, §§ 23, 24, 24G(a); drug sentences governed by c.94C, §32H; c.265, §§ 15A(a), 15B(a), 18(a), 19(a), 25(a); c.269, §10; c.272, §§ 4A, 4B, 6, and 7.

Since statutory good time reduces the time to be served prior to discharge by approximately forty percent (i.e. 12½ days per month) for any sentence receiving such credit which has a maximum term of four years or more, the elimination of statutory good time will significantly alter either the sentence which would be imposed or the amount of time which would be served by individuals who are discharged by expiration of sentence (i.e., not released by parole).

Chart "A" provides rough equivalencies between maximum terms under the old and new sentencing systems.

Parole Eligibility. Under both the old and new sentencing systems, the minimum term of a state prison sentence is used to calculate parole eligibility. Under the old sentencing system, an inmate serving a state prison sentence is eligible for parole after serving one-third or two-thirds of the minimum term. The parole eligibility date may be further reduced by earned good time.

Under the new sentencing system, a person committing a crime after June 30, 1994 will be eligible for parole after serving the minimum term. As under the present system, the parole eligibility date may be reduced by earned good time.

Chart "B" provides rough equivalencies between parole eligibility periods under the old and new sentencing systems.

Reformatory Sentences. The new law eliminates "Concord" (or Framingham) sentences to the state reformatory.

Chart "C" provides rough equivalencies between maximum terms and parole eligibility periods under the old and new sentencing systems.

State Sentence Overview. Charts "D" and "E" provide rough equivalencies between parole eligibility dates and maximum terms under the old and new sentencing systems for some of the most common sentence lengths.

Because, under the new sentencing system, parole eligibility is based on the minimum term and discharge is based on the maximum term, by separately changing each variable, it is possible to craft a state sentence which will have a parole eligibility and discharge date which is similar to any state reformatory or state prison sentence for a crime committed prior to July 1, 1994. However, a new system sentence which has a parole eligibility and discharge date similar to an old system sentence would yield a shorter period of parole supervision if the inmate is paroled.

D5

III. HOUSE OF CORRECTION SENTENCES

There is no change in the parole eligibility for house of correction sentences since parole eligibility for such sentences is established by regulations of the Massachusetts Parole Board rather than by statute. 103 CMR 201.00 et. seq. Discharge on house of correction sentences will change because of the elimination of statutory good time.

Because both parole eligibility and discharge are based on the maximum term of a house of correction sentence, it is virtually impossible for a house sentence for a crime committed after June 30, 1994 to have the

identical practical effect as a house sentence for a crime committed prior to July 1, 1994. A sentence can be crafted to have a similar parole eligibility period or a similar period to discharge (if parole is not granted), but not both.

IV. CONCLUDING NOTES

There is no way to know whether judges, individually or as a group, will modify their sentences under the new system so that the resulting sentences will be roughly equivalent to what they would have given under the old system, or whether they will continue to impose the same sentences which will usually result in much later parole eligibility and discharge dates.

Since the statute offers no guidance on this question, it is most likely that some judges will not modify their sentences and other judges will modify their sentences so that a defendant will serve approximately the same amount the defendant would have served under the old system.

The changes discussed above constitute a major modification of the sentencing system in Massachusetts. Sentences imposed by courts will be more truthful in that they will be easier to understand and will be much closer to what inmates will actually serve. It will be much easier to understand parole eligibility and discharge under a system where parole eligibility is set at the minimum term and discharge at the maximum term and both are reducible only by earned good time which can

lessen both terms by up to twenty percent.[4]

For at least the next few years, however, it will be necessary for those involved in the criminal justice system to understand both the old and the new sentencing systems and to know which system applies in a given case. Within several years virtually all sentences being imposed will be governed by the new sentencing system. At that time, many practitioners may be able to discard their knowledge of the old sentencing system. And that development may be welcomed by many if, and when, the even greater changes under the anticipated sentencing guidelines are enacted into law.

[4] Pursuant to G. L. c. 127, § 129D, up to 7.5 days can be earned per month. The maximum award can reduce a term by 20%. An additional 2.5 days per month can be earned under § 129C although only the relatively small number of inmates incarcerated at the prison camp are eligible for this credit.

Chart A: Comparison of Discharge Dates for State Prison Sentences Under Old and New Sentencing Systems

Maximum term		Stat GT[5]	Time Served[6]		
years	months	months	months	yrs mos	~Full Yr
1	12	2	10	0 y, 10 m	1
2	24	6	18	1 y, 6 m	
3	36	12	24	2 y	2
4	48	20	28	2 y, 4 m	
5	60	25	35	2 y, 11 m	3
6	72	30	42	3 y, 6 m	
7	84	35	49	4 y, 1 m	4
8	96	40	56	4 y, 8 m	
9	108	45	63	5 y, 3 m	5
10	120	50	70	5 y, 10 m	6
15	180	75	105	8 y, 9 m	9
20	240	100	140	11 y, 8 m	

[5] Statutory good time, pursuant to G. L. c. 127, § 129.

[6] The "Time Served" columns indicate the amount of time which would remain to be served after deduction of statutory good time under the old system and the equivalent maximum term under the new system. Under both systems this amount can be reduced by 20% by earned good time.

Chart B: Comparison of Parole Eligibility for State Prison Sentences Under Old and New Sentencing Systems

Old Sentencing System[7]		New System[8]
Two-thirds PE	One-third PE	
1.5	3	1 y
2	4	1 y, 4 m
2.5	5	1 y, 8 m
3	6	2 y
3.5	7	2 y, 4 m
4	8	2 y, 8 m
4.5	9	3 y
5	10	3 y, 4 m
6	12	4 y
7	14	4 y, 8 m
7.5	15	5 y
9	18	6 y
10	20	6 y, 8 m
15	30	10 y
18	36	12 y

D7

[7] Parole eligibility is one-third of the minimum term unless the crime is listed as a two-thirds crime in G. L. c. 127, § 133.

[8] Parole eligibility under the old system is comparable to the minimum term/parole eligibility under the new system.

Chart C: Comparison Between Old State Reformatory Sentences and New State Sentences[9]

Reformatory Sentence (years)	Parole Eligibility without prior (months)	Parole Eligibility with prior (months)	Good Conduct Discharge (GCD) with stat good time (months)
1	6	12	10
2	6	12	18
3	6	12	24
4	6	12	28
5	6	12	35
6	12	18	42
7	12	18	49
8	12	18	56
9	12	18	63
10	12	18	70
15	18	24	105
20	24	24	140

[9] The parole eligibility columns are divided between the parole eligibility for those with no prior adult incarcerations and those with a prior adult incarceration. The discharge column shows the good conduct discharge (GCD) for a sentence receiving statutory good time; the discharge for a sentence not receiving statutory good time would be the maximum term, i.e., the first column. Depending upon whether a sentence would have received statutory good time, the maximum term of the equivalent new system sentence would be the same as the reformatory sentence or the GCD.

Chart D: Comparison of State Prison Sentences Under Old and New Sentencing Systems[10]

One-Third P.E. Crimes		Two-thirds P.E. Crimes	
Old System	New System	Old System	New System
3 - 5	1 - 3	3 - 5	2 - 3
4 - 6	1 - 4½	4 - 6	3 - 4½
7 - 10	2 - 6	7 - 10	5 - 6
10 - 15	3 - 9	10 - 15	7 - 9
18 - 20	6 - 12	18 - 20	12 - 12

Chart E: Comparison of State Reformatory Sentences With New State Sentences[10]

Concord	without priors		with priors	
(years)	(months)	(years)	(months)	(years)
5	6-35	½-3	12-35	1-3
10	12-70	1-6	18-70	1½-6
15	18-105	1½-9	24-105	2-9
20	24-140	2-12	24-140	2-12

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[10] Charts "D" and "E" provide an approximate comparison of typical sentences under the old system with the counterpart sentences under the new system (assuming that the sentence would have been eligible for statutory good time). In other words, an old system sentence would yield the same amount of time to parole eligibility and to discharge as the new system sentence listed next to it. For example, a 3-5 year sentence for a one-third offense under the old system has the same parole eligibility and discharge as a 1-3 year sentence under the new system. These examples do not take into account the application of earned good time which affects sentences under both systems in identical ways.

TRUTH IN SENTENCING

A FEW KEY ELEMENTS

-applicability: crimes committed AFTER 7/1/94*

-eliminated statutory good time

-eliminated Concord/Reformatory sentences

-abolished split-sentences

-imposition of a forthwith sentence no longer wipes out a pre-existing Concord sentence

-minimum number of years in a state prison sentence may not be less than one (1) year

-Parole Eligibility

HOC sentence is NOT effected, PE = 1/2 committed sentence or 2 years which ever is less

Cedar Junction (State Prison) sentence, PE = minimum number of years in sentence less any earned time

* crimes committed prior to 7/1/94 are not effected

MPB/VSU/mmh 12/15/94

LIFE SENTENCES WITH PAROLE
15 YEAR HEARINGS

1. **When is the individual eligible for parole?**

An individual sentenced to life in prison with parole is eligible for parole after serving fifteen years.

2. **Is the individual automatically granted a parole when he or she is eligible for parole?**

No, parole eligibility only allows the individual an opportunity for a parole hearing, which may or not may result in the individual's release. At the hearing, the Parole Board considers whether the individual should be considered for release from confinement to complete his or her sentence in the community or elsewhere. If parole is granted, the Parole Board will establish the specific rules and conditions of behavior that the individual must adhere to if released.

3. **What procedures does the Parole Board follow for these parole release hearings?**

The individual is scheduled for a parole release hearing before the full Parole Board at least thirty days prior to his or her parole eligibility date. Please note the following.

(a) This parole hearing is open to the public.

(b) Notice of the hearing and opportunity to appear is given to the Attorney General, to the District Attorney in whose district sentence was imposed, and to the Chief of Police or head of the organized police department of the municipality in which the crime was committed.

(c) Notice of the hearing and opportunity to appear is given to the victim. If a victim is deceased at the time any parole hearing is scheduled, the deceased victim may be represented by relatives in the following order: mother, father, spouse, child, grandchild, brother, sister, niece or nephew.

(d) Parole is granted only by majority vote of the Parole Board.

(e) Notice of the decision of the Parole Board is given to the Attorney General, to the District Attorney in whose district sentence was imposed, to the Chief of Police or head of the organized police department of the municipality in which the crime was committed and to all individuals cleared by the Criminal History Systems Board to receive information about the case.

4. **What happens if the individual is denied parole at the parole release hearing?**

If an individual is denied parole after the public hearing, after a period of five years the full Parole Board shall conduct a public review hearing unless, by majority vote of the Board, an earlier date for review is established. If a hearing is scheduled, the notification procedures would be the same as explained in question 3 above.

5. **Does the Parole Board invite correspondence from the victim?**

Yes, the Parole Board encourages input from victims, victims' families and others. You may wish to provide information to the Board at this time. Information will be reviewed by the Board Members prior to the hearing and will enable the Parole Board Members to make an informed, balanced decision. Any information which you provide will be kept confidential.

6. **Who should you contact for further assistance?**

For further information or assistance, please contact the Victim's Service Unit of the Massachusetts Parole Board at (617) 727-3271.

MASSACHUSETTS PAROLE BOARD

VICTIMS SERVICE UNIT

LISTENING TO VICTIMS

Too often victims of crime feel that their needs are ignored by the criminal justice system. For many, it seems that the offender has all of the rights while too little attention is paid to those whose lives have been disrupted by another persons criminal action.

This pamphlet explains what the **Massachusetts Parole Board** is doing to give victims a voice in the system and to reassure every member of the community that their concerns matter. The Parole Board recognizes that the decisions it makes effect victims and the community as well as the offenders. The following information tries to answer some of the questions that victims and their families are most likely to have and to encourage phone calls if more information or assistance is needed.

WHAT IS PAROLE?

Parole is a portion of an offender's sentence which may be served in the community after a period of incarceration. Not all offenders are selected for parole release. Those individuals selected for parole must follow rules and conditions of behavior which are ordered by the Parole Board. All offenders who are released on parole are supervised by a parole officer in the community. In this way, the Parole Board strives to protect society by managing the sometimes difficult period of transition from incarcerated inmate to an individual who is a law-abiding citizen.

Parole is a conditional release. When granting parole release, the Parole Board may impose such conditions as "no contact with victim" or "must participate in counseling". **An offender who violates the conditions of parole may immediately be returned to custody.** Such return does not necessarily depend upon a new conviction or further court action.

WHEN WILL THE OFFENDER BE CONSIDERED FOR PAROLE?

Parole eligibility is a point in the sentence when the offender may be considered for parole release. Shortly before the parole eligibility date, the offender will be given a parole hearing. Being eligible for parole does not guarantee that the offender will be released on parole.

Parole eligibility is determined by the type and length of sentence which the offender received. **Questions regarding a specific offender's sentence may be directed to the Victims Service Unit.**

The parole eligibility date is tentatively calculated at the beginning of the offender's period of incarceration. Offenders serving sentences under sixty (60) days are not eligible for parole. Offenders serving some sentences which the law says are mandatory may not be eligible for parole. Offenders who are serving first degree life sentences are not eligible for parole.

HOW ARE PAROLE DECISIONS MADE?

Except for life sentences, all sentences are time limited. This means that most offenders will eventually be released from custody either through parole release or at the end of the sentence. When an offender is released on parole he/she is supervised by a parole officer and must comply with rules and conditions of behavior. In contrast, an offender released after completion of the sentence is not under parole supervision. In some cases, it may be better, for both the offender and the community, to have an offender be released on parole and have a period of supervision rather than allow the offender to complete the sentence and be released without any supervision. However, the Parole Board will not release an offender who is believed to be a risk to the community.

In an effort to determine whether an offender may present a risk to re-offend, the Parole Board reviews all available information prior to conducting a parole hearing. The Parole Board receives official information from the courts, District Attorney offices, correctional facilities and probation departments. Some of the factors which the Parole Board looks at are: the nature of the present offense, prior criminal history, behavior during the incarceration, prior probation or parole failure, remorse and responsibility for the offense, community support and community opposition. In addition to a review of the information, the parole hearing includes an interview of the offender.

HOW MAY VICTIMS AND MEMBERS OF THE COMMUNITY PARTICIPATE?

Parole hearings which are conducted for second degree life sentences and commutation are open to public attendance. Also, parole hearings conducted for state prison sentences which resulted in a death are open to attendance from the surviving family members. Although victims and family members may not attend parole hearings for other types of offense, the Parole Board encourages victims and others to express their feelings and concerns about parole release.

Any information that a victim wishes to provide will be carefully considered by the Parole Board. This information may include: **a brief overview of the crime, any fears or concerns about the offender or possible release, and any long term effects from the crime.** The Parole Board does not require a formal **Victim Impact Statement** but will accept information in any form and from any source. Victims may submit letters from family members, neighbors or therapists. Video and audio tapes and photographs are also accepted.

It is not necessary to wait to submit information until the offender has been scheduled for a parole hearing. In fact, if the offender is serving a short sentence, then such information should be sent immediately after sentencing. Any information which is submitted will be kept confidential and reviewed only by the members of the Parole Board.

Please submit information to the Victims Service Unit at the address at the end of this booklet.

WHAT INFORMATION ABOUT THE OFFENDER MAY I OBTAIN?

Because offenders, like all citizens, are protected under privacy legislation there is some personal information which may not be released. However, the Massachusetts Victim Bill of Rights, allows an individual who is the victim, witness, parent or guardian of a minor victim, family member of a homicide victim or a person who has reason to fear for their safety, to receive **automatic** notification about certain changes in an offender's status. In order to receive such notification, it is necessary to complete an application. **The Victims Service Unit is available to assist with the application process.**

Automatic notification means that the Parole Board will send letters with information about tentative parole eligibility, parole hearing dates, Parole Board decisions and parole release. Information about parole release includes: the date of release, the name and phone number of the supervising parole officer and conditions of parole. For those individuals approved for notification, other information may be available to aid security and well being. **Individuals who feel they need to obtain further information may contact the Victims Service Unit.**

WHO MAY I CONTACT FOR INFORMATION OR ASSISTANCE?

Since 1987, the Parole Board has provided **information, support and referral** services to victims, witnesses and their families through its **Victims Service Unit.** The staff of the unit are trained to respond to the questions and concerns which victims may have about parole issues. Victim Advocates are also available to assist victims in communicating their concerns to the Parole Board and to provide referrals to community and criminal justice agencies.

A Victim Advocate is available to speak with individuals by telephone or in-person, weekdays at the Parole Board's Central Office, from 8:45 am to 5:00 pm. If necessary, a Victim Advocate will arrange to meet with victim at one of the nine regional parole offices in the Commonwealth.

For information or assistance, please call or write:

VICTIMS SERVICE UNIT

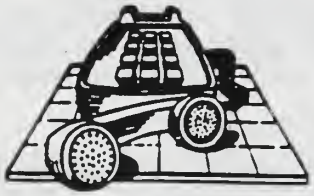
MASSACHUSETTS PAROLE BOARD

27-43 WORMWOOD STREET

BOSTON, MA. 02210-1606

FAX (617) 727-2753

PHONE (617) 727-3271



MASSACHUSETTS PAROLE BOARD
VICTIM PARTICIPATION IN PAROLE HEARINGS

The Massachusetts Parole Board has implemented a program which will provide crime victims and their family members with increased access to the parole hearing and decision making process. In addition to the Parole Board's current practice of permitting meetings with Board members and accepting written impact statements, the Parole Board offers two new options for surviving family members in cases where the offense resulted in death and the offender received a state prison sentence.

OPTION 1. Surviving family members will be offered the opportunity to attend and may testify at the initial parole eligibility or annual review hearing, or

OPTION 2. Surviving family members will be offered an opportunity to view a video tape of the hearing and offer comments prior to a decision being reached.

Provided below is additional information about these two options to assist your selection. The Parole Board encourages you to participate in a way which best meets your needs.

I. ATTENDING THE HEARING

WHO MAY ATTEND?

Surviving family members, 17 years or older, of victims of crimes which result in death may attend parole hearings for inmates who are serving state prison sentences. In addition, all surviving family members who wish to attend the hearing MUST be CORI-certified by the Criminal History Systems Board. Assistance in obtaining CORI-certification will be provided upon request to the Victims Service Unit.

IS THE INMATE PRESENT?

The inmate will be present during the hearing. Because the inmate is in custody, there will also be correction officers present. The inmate may appear at the hearing in leg and hand restraints. In addition, the Parole Board will provide security officers.

WHAT WILL HAPPEN AT THE HEARING?

Hearing Room

Hearings are conducted in a large conference room. The Parole Board members will sit at a table in the front of the room. The inmate will be seated directly in front of the Board members. Surviving family members of the victim will sit behind the inmate.

Introduction and Administration of Oath to Testify Truthfully

The presenting Parole Board member will convene the hearing, introduce the members of the Parole Board and administer an oath to testify truthfully to all parties.

Interview of the Inmate

The inmate will be asked to inform the Board about the crime which was committed, record of incarceration, readiness for parole release and any other issues which the Board feels are relevant. Each Board member will have an opportunity to question the inmate.

Testimony from Surviving Family Members

When the Board has concluded the interview with the inmate, he/she will be asked to sit at the side of the room. Surviving family members of victims will then be invited to sit at the table in front of the Board and testify. Surviving family members are not required to testify.

Each surviving family member will have no longer than 5 minutes to inform the Board of the impact of the crime and feelings and concerns related to the matter of parole for the inmate. All testimony will be directed to the Parole Board members.

Concluding the Hearing

After the surviving family members have testified, the inmate will return to a seat in front of the Board and be allowed to make a closing statement. The presenting Board member will conclude the hearing. The inmate will be escorted from the room. When the inmate has exited the room, surviving family members will be allowed to exit.

Following the hearing, the Board will discuss the case and vote. Written notification of the Board's decision will be provided, by first class mail, within one week after the final decision is made.

WHAT ARE MY RESPONSIBILITIES

Registering to Attend the Hearing

It will be your responsibility to contact the Victims Service Unit to register your intent to attend the hearing. If you wish to attend the hearing, you must register your intent within 30 days of receiving this notice. Once you have registered your intent, the hearing will be re-scheduled and you will receive notification of the exact date of the hearing.

Hearing Security

In order to gain access to the hearing, you must be CORI-certified. You will be asked to present personal identification and sign a registration form. Handbags and packages will be subject to inspection.

WHERE WILL THE HEARING TAKE PLACE?

The hearing will be conducted at the Parole Board's Central Office on the third floor of 27-43 Wormwood Street, Boston, MA. This location is handicapped accessible and is accessible by public transportation. Directions will be provided upon request.

II. VIEWING A VIDEO TAPE OF THE HEARING

WHO MAY VIEW THE VIDEO TAPE OF THE HEARING?

Surviving family members, 17 years or older, of victims of crimes which result in death may view video tape of parole hearings for inmates who are serving state prison sentences. All surviving family members who wish to view the video tape MUST be CORI-certified by the Criminal History Systems Board. Assistance in obtaining CORI-certification will be provided upon request to the Victims Service Unit.

WHAT IS THE PROCEDURE?

Registering to View the Video Tape

Surviving family members must contact the Victims Service Unit seven (7) days in advance of the hearing to register an intent to view the video tape. The Victims Service Unit will arrange an appointment for the surviving family members to view the video tape at the Parole Board's Central Office in Boston.

Hearing Process and Decision Making Process

The parole hearing, which will take place at a correctional institution, will be videotaped. The Parole Board members will delay making a parole release decision. The video tape will be sent to the Parole Board's Central Office in Boston. Surviving family members will view the video tape and offer written comments within 7 days of the parole hearing.

The Parole Board members will review the written comments of the surviving family members and reach a decision. Written notification of the Board's decision will bevided, by first class mail, within one week after the final decision is made.

WILL THE INMATE KNOW THAT I HAVE VIEWED THE VIDEO TAPE?

The inmate will be informed that the Parole Board is delaying making a parole release decision until the surviving family members have had an opportunity to review the video tape and provide comments. The inmate will not have access to any written comments which you provide after viewing the tape.

Providing Comments to the Parole Board

After viewing the video tape, you will have an opportunity write down any comments which you have about the hearing. These comments must be provided immediately after the video tape is viewed. A form will be provided to you for this purpose. You may request that your comments be kept confidential.

WHERE WILL THE VIEWING OF THE VIDEO TAPE TAKE PLACE?

The video tape will be viewed at the Parole Board's Central Office on the third floor of 27-43 Wormwood Street, Boston, MA. This location is handicapped accessible and is accessible by public transportation. Directions will be provided upon request.

WHO MAY I CONTACT FOR ADDITIONAL INFORMATION?

Please contact the Victim Advocate assigned to you case at the:

VICTIMS SERVICE UNIT
PAROLE BOARD
27-43 WORMWOOD STREET
BOSTON, MA 02210-1606
(617) 727-3271

DEPARTMENT OF CORRECTION

VICTIM SERVICE UNIT

For Information Contact:
Allison R. Price, Director
Department of Correction, Victim Service Unit
100 Cambridge Street, 22nd Floor
Boston, MA 02202
(617) 727-3300 x 179

as of May 1, 1999, the new address and phone number are:

Department of Correction
Victim Service Unit
999 Barretts Mill Road
West Concord, MA 01742
phone: (617) 727-8612
fax: (617) 727-8625

The Survivor's Psalm

I have been victimized.
I was in a fight that was not a fair fight.
I did not ask for the fight. I lost.
There is no shame in losing such fights,
only in winning...
I look back with sadness rather than hate.
I look forward with hope rather than despair...
I was a victim.
I am a survivor.

VICTIM SERVICE UNIT'S MISSION

Our primary mission at the Victim Service Unit is: **to provide information, assistance, and support to victims of crime and other concerned parties whose offenders are in the custody of the Massachusetts Department of Correction. These services will be administered with respect, compassion, and confidentiality.**

In addition to helping victims of crime, the Department of Correction is available to Victim Service Groups and State Agencies for public speaking and training.

INTRODUCTION

On November 14, 1994 the Massachusetts Department of Correction established its Victim Service Unit (VSU). The VSU provides victims and CORI certified individuals with post conviction offender information, emotional support, crisis intervention, safety planning and referral services.

It is our hope that the VSU, will provide you with the information, assistance, and support needed to make your involvement in the criminal justice process more manageable and rewarding, as well as helping you to achieve justice, as well as healing.

Please contact the Victim Service Unit if you have any questions or concerns relative to the offender's incarceration, as we are here to assist you. We understand that this can be overwhelming, and we welcome the opportunity to provide you with assistance.

WHAT HAPPENS TO AN INMATE ONCE HE IS SENTENCED?

The Massachusetts DOC's classification process commences once an inmate becomes incarcerated. Often times, a Judge may state at the time of sentencing that the offender is "hereby sentenced to a Walpole State Prison sentence". However, when a male inmate receives a State Prison sentence, he is transported from the committing court to MCI-Concord for booking, admission, and an initial classification review. Shortly after the review, the inmate will be transferred to the DOC facility deemed appropriate by the classification board. MCI Cedar Junction and the Souza Baranowski Correctional Center predominantly house inmates who have demonstrated disruptive behavior while incarcerated.

Females inmates who receive State Prison sentences are transported directly from the committing court to MCI-Framingham, since it is the only female committing institution in Massachusetts. Female inmates undergo the same classification process at MCI-Framingham as male inmates.

All inmates must be reviewed by a classification board every six months during their incarceration. At this time a comprehensive report is prepared on the inmate and a classification hearing is held. The inmate is present and recommendations are made indicating participation in appropriate programs as well as an appropriate correctional facility housing assignment.

HOW IS INMATE HOUSING DETERMINED?

Currently there are two major types of prisons; secure facilities and lower security facilities, otherwise known as minimum and pre-release facilities. These two types of prisons are based on security provided, physical design barriers to prevent escape and control inmate behavior, along with degree of staff supervision necessary to ensure proper control. Inmates may be transferred from one institution to another or returned to a secure facility at any time for the purposes of maintaining security at the institution, public safety, or the welfare of an inmate.

HOW IS THEIR SENTENCE COMPUTED AND HOW IS IT THAT AN INMATE CAN BE RELEASED EARLY?

Inmate sentences can be reduced due to the subtraction of statutory and earned good time credits depending on the inmate's sentence structure. The dates that can be reduced are parole eligibility (P.E.), minimum, maximum and good conduct discharge (GCD) dates. There are two ways in which an inmate's sentence can be reduced based on either **statutory credit** or **earned good time credit**.

All statutory good time credits have been eliminated for all offenses committed on or after July 1, 1994. Inmates incarcerated for crimes committed prior to July, 1994 are entitled to statutory credit except for life sentences, sex offenders, certain mandatory sentences and drug law convictions. In instances where the inmate is eligible, statutory good time credits are based on the length of the inmate's sentence and can range from 2 ½ to 12 ½ days per month. These credits may be forfeited from the inmate during his incarceration due to certain disciplinary infractions.
In addition to statutory credit, there is also **earned good time credit** which can reduce an inmate's sentence.
This credit is not automatically awarded, as was statutory good time credit, but rather these deductions are earned due to satisfactory participation in work, educational and rehabilitation programs while incarcerated. An inmate may receive 2 ½ days in one of the above categories for a maximum total of 7 ½ days per month.

The total number of credits earned is then subtracted from all of the sentencing dates to arrive at new adjusted dates. Certain sentences such as life sentences, are precluded from sentence reduction.

WHAT ARE THE RIGHTS OF VICTIMS AND CONCERNED PARTIES?

As a victim, family member of a victim, or concerned party, you can apply to be certified to receive pertinent information regarding the offender. This certification will allow you to be notified of an inmate's final release from custody, death, escape, transfer from a secure facility to a less secure facility, and emergency escorted furlough (wake/funeral). You may obtain a CORI certification application from your District Attorney's Office, the Department of Correction's Victim Service Unit, the Parole Board or the Criminal History Systems Board (CHSB). Once you have been certified, it is the responsibility of the Department of Correction to notify you when an inmate:

- Transfers to an lower security facility (minimum & pre-release)
- Returns to a secure facility from a lower security facility
- Receives a final release date
- Receives an emergency release under escort (wake/funeral)
- Death (dies)
- Escapes

OTHER FREQUENTLY ASKED QUESTIONS

Will I be notified of upcoming parole hearings for the offender? Can I let the parole board know how I feel about a possible release?
For information on victim impact statements and an inmate's parole status, please contact the Massachusetts Parole Board at (617) 727- 3271 and ask to speak to a victim advocate.

What should I do if I am receiving unwanted contact from the offender?
You should call the Department of Correction, Victim Service Unit as soon as possible at (617)727-3300 x 179 or (after May 1, 1999) (617) 727-8612 and we will assist you.

If I become CORI certified will the offender know that I am certified or know my address and personal information?
No. CORI information is confidential and is not released to inmates at any time.

Massachusetts Sentencing Commission
Report To The General Court

Executive Summary

THE HONORABLE ROBERT A. MULLIGAN,
CHAIRMAN

JUNE 1996

MASSACHUSETTS SENTENCING COMMISSION
REPORT TO THE GENERAL COURT

EXECUTIVE SUMMARY

INTRODUCTION

The Sentencing Commission Report was submitted to the General Court on April 11, 1996, pursuant to Chapter 432 of the Acts of 1993 (later codified as G.L. c. 211E).

The Sentencing Commission is comprised of fifteen members with diverse criminal justice perspectives and philosophies, including three judges, three prosecutors, and three defense counsel, along with other representatives of the criminal justice community and victims. The commission report was unanimously adopted as the fairest and most effective reform of criminal sentencing.

The proposed sentencing policies and guidelines contained in this report will promote public safety by providing just punishment for those who commit crime. Violent offenders will face longer periods of incarceration. Less serious and first-time offenders will be held accountable by an array of intermediate sanctions. The guidelines will promote fairness and reduce disparity while preserving that degree of judicial discretion necessary to fashion the sentence appropriate for the individual offender and the specific offense.

Much of the impetus for creating a sentencing commission and developing sentencing guidelines in Massachusetts was generated by the Task Force on Justice, a joint enterprise of the Boston Bar Association and the Crime and Justice Foundation, which issued its report on sentencing and corrections in Massachusetts in February, 1991. The Task Force found that:

> (S)entencing in Massachusetts is haphazard, confusing, and archaic, with a hodgepodge of options. More importantly, Massachusetts judges are given no guidance on what to consider in sentencing, except for those crimes carrying mandatory penalties. As a result, there is substantial disproportionality in sentences given for various offenses and a lack of uniformity among sentences imposed for the same offense.

The Task Force also noted certain other areas of concern, such as the tenuous relationship between the sentence imposed and the time actually served; the *ad hoc* approach to sentencing reform in recent years; and, the constraints on uniform and proportional sentencing posed by the existence of mandatory sentencing.

These concerns were addressed in the Massachusetts truth-in-sentencing law. This legislation has been nationally recognized as a model statute for its comprehensiveness in addressing the issues associated with the establishment of a sentencing commission and the formulation of sentencing guidelines.

MISSION

The mission of the Sentencing Commission is to promote truth in sentencing by formulating uniform sentencing policies, developing systematic sentencing guidelines, and integrating intermediate sanctions within the sentencing guidelines.

GUIDING PRINCIPLES

The commission articulated certain principles to guide its deliberations in the development of sentencing policies and guidelines. These principles call for an approach to guidelines development which is prescriptive, comprehensive, neutral regarding race and gender, empirical, and which takes into account prison capacity and the integration of intermediate sanctions.

DECISION MAKING PROCESS

Open Process

The experience of sentencing commissions in other jurisdictions indicated that the more open the process, the more successful the guidelines development enterprise. Therefore, in developing sentencing policies and guidelines, the commission established a process that encouraged input from all interested parties. Accordingly, the commission conducted a series of twenty-seven focus groups and held five public hearings across the Commonwealth. The focus groups and public hearings provided many valuable and diverse insights for consideration by the commission.

Research Process

The truth in sentencing legislation mandated that a comprehensive research effort be undertaken in conjunction with the development of the sentencing guidelines so that the commission's decisions and policies would be informed by empirical data. The commission's research included a study of existing sentencing practices, which documented disparity in sentencing in Massachusetts; a study of time currently being served; and, a study of the impact of the proposed sentencing guidelines on correctional populations. A pilot project to test the sentencing guidelines in the Superior Court was also an important part of the guidelines development process.

SENTENCING GUIDELINES

After extensive research and discussion, the commission adopted a grid-type approach as the conceptual model for sentencing guidelines. The sentencing guidelines grid was designed to encompass both felonies and misdemeanors.

Offense Seriousness Level
Once the grid model was adopted, the commission embarked on the process of ranking offenses by seriousness. This process of ranking crimes according to seriousness resulted in a Master Crime List of over 2,200 crimes classified in nine levels of seriousness.

Criminal History
The commission adopted a model for classifying criminal history that is more "descriptive" than mathematical. Based on the nature of the criminal record, offenders are placed in one of five criminal history categories: *Serious Violent Record; Violent or Repetitive Record; Serious Record; Moderate Record; and, No/Minor Record.*

Determining The Sentence
The grid-type model which the commission adopted is based on a matrix with offenses classified on the vertical axis according to seriousness and criminal history classified on the horizontal axis according to severity. (A copy of the Sentencing Guidelines Grid is attached.) Within each cell in the matrix, the commission established a sentencing guideline range. To sentence within the guideline range, a judge would select the maximum sentence from the sentencing range in the applicable cell on the gird. The minimum sentence, which represents the parole eligibility date, will automatically be two-thirds of the maximum sentence

Ordinarily, a judge would impose a sentence within the guideline range, but, where there are aggravating or mitigating circumstances, the judge may depart from the range with the requirement that the judge set forth in writing the reasons for departure. Any departure must be based on a finding that one or more mitigating or aggravating circumstances exist. The commission established a non-exclusive list of aggravating and mitigating factors to guide the sentencing judge.

Intermediate Sanctions
In order to facilitate the integration of intermediate sanctions into the sentencing guidelines, the commission incorporate three "zones" into the sentencing guidelines grid - an incarceration zone, where the sentencing ranges would call for a period of incarceration; an intermediate sanctions zone, where the sentencing ranges would call for an intermediate sanction; and, a discretionary zone, where the sentencing ranges

would include both a period of incarceration and an intermediate sanction option to be selected at the discretion of the judge. The commission also adopted the notion of a continuum of four levels of intermediate sanctions, based on the constraints on personal liberty associated with the sanction, as follows:

Level IV - 24 Hour Restriction
The offender is *subject to* 24-hour restriction/accountability of his whereabouts - e.g., Halfway House, Inpatient Alcohol/Drug Facility.

Level III - Daily Accountability
The offender is *subject to* daily accountability of his whereabouts - e.g., Electronic Monitoring, Intensive Probation Supervision.

Level II - Standard Supervision
The offender is *subject to* weekly accountability of his whereabouts - i.e., standard probation supervision.

Level I - Financial Accountability
This represents the level of restriction/accountability that is typically associated with administrative probation - i.e., monitoring the timely payment of restitution, fines, victim/witness fees, and the like.

When imposing an intermediate sanction sentence, the sentencing judge shall specify the particular level of intermediate sanction selected from those available within the appropriate grid cell.

Concurrent or Consecutive Sentencing
When a defendant is convicted on multiple charges, the court may impose either concurrent or consecutive sentences. A judge may impose consecutive sentences up to twice the upper limit of the guideline range of the governing offense. If the aggregate sentence exceeds twice that upper limit, it is considered a departure and written reasons are required. The existence of multiple victims is recognized as an appropriate aggravating circumstance which would support such a departure. This limitation on consecutive sentences applies only to consecutive sentences to the state prison. There is no such limit on consecutive sentences to Houses of Correction.

Sentencing for Offense with Mandatory Minimum Sentences

G.L. c. 211E permits the commission to go below existing mandatory minimum terms in developing sentencing guidelines ranges. There are three general categories of offenses with mandatory minimum sentences that the commission considered under this statutory provision - firearms offenses, OUI offenses, and drug offenses.

Firearms and OUI Offenses. The commission adopted the position that no departures from the mandatory minimum sentences should be permitted for firearms offenses or for OUI offenses, with the exception that long term residential alcohol treatment programs, approved by the Office of Community Corrections, should be available as intermediate sanctions for OUI offenders up to the third OUI conviction.

Drug Offenses. The commission made a limited exception with respect to mandatory drug offenses and integrated these offenses into the guidelines grid. By integrating these drug crimes into the sentencing guidelines ranges with other crimes, the commission sought to adopt a more comprehensive approach to the development of sentencing guidelines.

The commission began with the most serious drug offenses - e.g., those trafficking crimes with 15 year mandatory minimum sentences - and integrated them into level 8, the highest level of offense seriousness on the grid (short of murder). The following chart provides a summary of the manner in which the mandatory drug crimes were integrated into the sentencing grid.

Existing Mandatory Minimum Sentence	Level Integrated on Sentencing Grid
15 years	8
7 & 10 years	7
5 years	6
2 & 3 years	5
1 year	4

A judge is required to provide written reasons for going below a mandatory minimum term even though the judge may be imposing a sentence that is within the guideline range. The commission made the standard for going below the mandatory minimum term more stringent than the ordinary standard for departure from a guideline range. Finally, the judge always has the option to impose the mandatory minimum term and such sentence shall not be considered a departure even if the mandatory minimum term exceeds the guideline range.

Financial Sanctions

The commission recognized the importance of restitution to the victim as a means of restoring the victim and of holding the offender accountable. When appropriate, a judge should order fines or restitution or both as part of any sentence.

SPLIT SENTENCES

Chapter 432 eliminated the split sentence to the state prison, effective July 1, 1994. Once the sentencing guidelines have been adopted, the split sentence to Houses of Correction will also be eliminated. The commission found widespread and consistent support for the split sentence at focus group meetings and public hearings. It is the type of sentence that is particularly appropriate for the substance abusing offender, and, in this regard, the commission received a strong recommendation from the Supreme Judicial Court Substance Abuse Task Force to retain the split sentence as it is presently being used. Therefore, the commission recommended that the statute be amended to permit the continued availability of the split sentence to Houses of Correction. The commission does not recommend that split sentences be permitted for sentencing to the state prison.

SUMMARY

The commission has recommended a comprehensive set of sentencing policies and guidelines to promote greater fairness, uniformity, and truth in sentencing. The sentencing guidelines were formulated under a prescriptive approach, aimed at enhancing the penalties for violent offenders and developing a system of intermediate sanctions for non-violent offenders. Empirical research on current sentencing patterns, time presently being served, and prison population projections informed the guidelines development process. The different perspectives of commission members and the insights gained from focus groups and public hearings all contributed to the formulation of a balanced and integrated set of sentencing policies and guidelines.

The process of developing these sentencing policies and guidelines was characterized by vigorous debate. Commission members advocated articulately and strenuously for the points of view of their constituencies. As expected, the commission did not reach unanimity on each point of discussion. However, it is significant that the commission members, who are required by statute to vote on the sentencing guidelines, did vote unanimously to adopt the sentencing policies and guidelines and the intermediate sanction policies and recommendations, as a whole, as set forth in the Report to the General Court.

Sentencing Guidelines Grid

Level	Illustrative Offense	Sentence Range				
9	I Murder	Life	Life	Life	Life	Life
8	Manslaughter (Voluntary) Rape of Child with Force Aggravated Rape Armed Burglary	96 - 144 Mos.	108 - 162 Mos.	120 - 180 Mos.	144 - 216 Mos.	204 - 306 Mos.
7	Armed Robbery (Gun) Rape Mayhem	60 - 90 Mos.	68 - 102 Mos.	84 - 126 Mos.	108 - 162 Mos.	160 - 240 Mos.
6	Manslaughter (Involuntary) Armed Robbery (No gun) A&B DW (Significant injury)	40 - 60 Mos.	45 - 67 Mos.	50 - 75 Mos.	60 - 90 Mos.	80 - 120 Mos.
5	Unarmed Robbery Stalking In Violation of Order Unarmed Burglary Larceny ($50,000 and over)	12 - 36 Mos. IS-IV IS-III IS-II	24 - 36 Mos. IS-IV IS-III IS-II	36 - 54 Mos.	48 - 72 Mos.	60 - 90 Mos.
4	Larceny From a Person A&B DW (Moderate injury) B&E (Dwelling) Larceny ($10,000 to $50,000)	0 - 24 Mos. IS-IV IS-III IS-II	3 - 30 Mos. IS-IV IS-III IS-II	6 - 30 Mos. IS-IV IS-III IS-II	20 - 30 Mos.	24 - 36 Mos.
3	A&B DW (No or minor injury) B&E (Not dwelling) Larceny ($250 to $10,000)	0 - 12 Mos. IS-IV IS-III IS-II IS-I	0 - 15 Mos. IS-IV IS-III IS-II IS-I	0 - 18 Mos. IS-IV IS-III IS-II IS-I	0 - 24 Mos. IS-IV IS-III IS-II	6 - 24 Mos. IS-IV IS-III IS-II
2	Assault Larceny Under $250	IS-III IS-II IS-I	0 - 6 Mos. IS-III IS-II IS-I	0 - 6 Mos. IS-III IS-II IS-I	0 - 9 Mos. IS-IV IS-III IS-II IS-I	0 - 12 Mos. IS-IV IS-III IS-II IS-I
1	Operating Aft Suspended Lic Disorderly Conduct Vandalism	IS-II IS-I	IS-II IS-I	IS-II IS-I	0 - 3 Mos. IS-IV IS-III IS-II IS-I	0 - 6 Mos. IS-IV IS-III IS-II IS-I
	Criminal History Scale	A No/Minor Record	B Moderate Record	C Serious Record	D Violent or Repetitive	E Serious Violent

Sentencing Zones

- Incarceration Zone
- Discretionary Zone (incarceration/intermediate sanction)
- Intermediate Sanction Zone

Intermediate Sanctions Levels

- IS-IV 24-Hour Restriction
- IS-III Daily Accountability
- IS-II Standard Supervision
- IS-I Financial Accountability

The numbers in each cell represent the range from which the judge selects the maximum sentence (Not More Than); The minimum sentence (Not Less Than) is 2/3rds of the maximum sentence and constitutes the initial parole eligibility date.

Criminal History Groups

E — **Serious Violent Record**
Two or more prior convictions in any combination for offenses in level 7 through 9

D — **Violent or Repetitive Record**
Six or more prior convictions in any combination for offenses in levels three, four, five, or six; or
Two or more prior convictions in any combination for offenses in levels five or six; or
One prior conviction for offenses in levels seven through nine.

C — **Serious Record**
Three to five prior convictions in any combination for offenses in levels three or four; or
One prior conviction for offenses in levels five or six.

B — **Moderate Record**
Six or more prior convictions in any combination for offenses in levels one or two; or
One or two prior convictions in any combination for offenses levels three or four.

A — **No/Minor Record**
No prior convictions of any kind; or
One to five prior convictions in any combination for offenses in levels one or two.

The National Center for Victims of Crime

INFOLINK: Victim Impact Statements

The term "victim impact statement" refers to written or oral information about the impact of the crime on the victim and the victim's family. Victim impact statements are most commonly used at sentencing. Such statements provide a means for the court to refocus its attention, at least momentarily, on the human cost of the crime. They also provide a way for the victim to participate in the criminal justice process. The right to make an impact statement generally is extended beyond the direct victim to homicide survivors, the parent or guardian of a minor victim, and the guardian or representative of an incompetent or incapacitated victim.

Every state allows some form of victim impact information at sentencing. The majority of states allow both oral and/or written statements from the victim at the sentencing hearing, and require victim impact information to be included in the presentence report. Currently, most states and the District of Columbia allow information about the impact of the offense(s) on the victim to be included as part of the presentence report; every state and the District of Columbia allows written victim impact statements at the sentencing hearing, and 48 states allow oral statements at sentencing.

As part of the *Federal Crime Act of 1994*, Congress gave federal victims of violent crime or sexual assault the right to speak at sentencing. Through the *Child Protection Act of 1990*, child victims of federal crimes are allowed to submit victim impact statements in measures which are "commensurate with their age and cognitive development," which could include drawings, models, etc.

Victim impact statements usually describe the harm the offense has had on the victim, including descriptions of all financial, physical, psychological or emotional impact, harm to familial relationships, descriptions of any medical treatments or psychological services required by the victim or the victim's family as a result of the victimization, and the need for any restitution. State law might list the elements to be included in the statement, or it may simply permit a "description of the impact of the offense." In addition, many states allow the victim to recommend a sentence and/or express an opinion about the proposed sentence.

Along with victim impact statements at sentencing, the majority of states also permit victim input at the parole hearing of the offender. To provide such input, the victim is usually required to maintain a current address on file with the parole board or some identified similar criminal justice agency. In 1990, California passed a law which allows for the use of *videotaped* victim impact statements at parole release hearings. Several states have followed California's lead, recognizing that many victims are unable to travel far to institutions at which parole release hearings are held, especially victims who reside out of state. Similarly, some states are allowing the use of *audiotaped* victim impact statements for the same reasons.

In a number of states, the original victim impact statement that was prepared for the sentencing hearing is included in an incarcerated offender's file by corrections and paroling

authorities, and reviewed as part of the parole process. A number of states also invite victims to submit an updated impact statement which can include any evidence of communication they may have received from the offender or the offender's associates since sentencing, as well as any other new or updated information concerning the crime's impact on the victim (such as, additional medical procedures like physical therapy, surgeries, etc., or continued psychological impact and/or treatment).

Less frequently, victims have input into bail hearings, pretrial release hearings, plea bargain hearings, and other proceedings. In Georgia, many victims are eligible to file a written victim impact statement at the outset of the case. This statement is attached to the file and may be used by the prosecutor or judge during any stage involving predisposition, plea bargaining, sentencing or the determination of restitution. (GA Code § 17-10-1.1).

The right to present victim impact information, whether written or oral, is usually guaranteed by law. However, some states leave the matter in the discretion of the judge or other officials (such as the parole board). While the laws do not always ensure that the victim impact statement will do more than allow victims a chance to express themselves, many states specifically require the court or board ruling on the offender's status to consider the victim's statements in making its decision.

In most states, a defendant has the right to contest assertions made in the victim impact statement. This is most often limited to objecting to factual statements in the statement. In a few states, the defendant or defense counsel even has the right to cross-examine the victim.

Until recently, victim impact statements were held inadmissible in cases where the death penalty was sought. However, the U.S. Supreme Court in *Payne v. Tennessee (1991)* reversed its earlier ruling and found that the admission of victim impact statements did not violate the Constitution. A few states continue to prohibit the use of victim impact statements in death penalty cases.

For more information about the use of victim impact statements in your state, contact your state Attorney General's office, your local prosecutor's office or your local law library.

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Workshop Five
Crime Victims and The Guardian ad Litem System

Crime Victims and the Guardian ad Litem System

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The Roles of the Guardian ad Litem

Robert H. Weber
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Introduction

The probate and family courts in Massachusetts frequently appoint individuals to serve as guardians ad litem. The courts' authority to make such appointments derives from a number of different statutes and rules. Although the general practice of most courts is to appoint attorneys to serve as guardians ad litem, some courts use mental health or medical professionals in specialized cases.

Probate and family court judges appoint guardians ad litem in a wide range of cases. These include many guardianships, particularly those involving the administration of extraordinary medical treatment,[1] contested cases to terminate the rights of parents to consent to adoption,[2] petitions to approve an estate plan,[3] divorces where one of the parties is mentally ill,[4] and petitions for the allowance of accounts.[5] Some of these statutes specifically authorize the appointment of a guardian ad litem, some cases require appointments under specific rules of court, and judges make additional appointments under a general grant of authority when a guardian ad litem is required.

The role of the guardian ad litem in these cases is not always clear. In some cases the guardian ad litem fails to meet the court's expectations because the judge and the guardian ad litem have a different understanding about the function of the guardian ad litem. This article will discuss the roles of the guardian ad litem in the probate and family court. The authors will describe cases that require or permit the appointment and provide some insight into the various roles the guardian ad litem can be asked to fulfill.

Historical Background

Guardians ad litem originate from a practice in the English Court of Chancery.[6] Their purpose was to stand in the place of an infant who was deemed unable to represent himself before a court of law. When an infant appeared before the court, either as a defendant in a suit, or as an individual with an interest in property, the King, under his *parens patriae* powers, would appoint a guardian ad litem to protect the interests of the infant.[7]

A history of guardians ad litem in Massachusetts reveals that the court had the statutory authority to appoint guardians ad litem for minors and unascertained or unborn individuals in specific instances during estate and trust proceedings. The court also had the statutory authority to appoint guardians ad litem in a proceeding concerning the care, custody or adoption of a minor. As these statutes limited the authority of the court to appoint a guardian ad litem, a probate rule was enacted which allowed the probate court to appoint a guardian ad litem to any legally incompetent individual who had an interest in the matter before the court. More recently, procedural rules and case law have broadened the court's power to appoint guardians ad litem whenever the court believes it necessary to protect the interests of a person in a judicial proceeding.[8]

A review of the development of the statutory law in Massachusetts serves as a good historical perspective on the roles of guardians ad litem. From 1803 to 1893, the general laws provided narrowly defined circumstances where the court had the authority to appoint a guardian ad litem. In 1863, c. 25 (presently c. 203 §17) was enacted. This statute permitted the court to appoint a guardian ad litem to represent the interests of persons not in being who may be entitled to a remainder or other interest in a trust estate. The role of this guardian ad litem was to stand in the place of the person not in being, and to assent or contest the application for sale of trust property. In 1877, c.199 (presently c. 206 §24) was enacted, which permitted the court to appoint a guardian ad litem to represent the interests of any person unborn, unascertained or legally incompetent. The function of this guardian ad litem was to stand in the place of the unborn, unascertained or incompetent person in assenting or contesting a final settlement of a probate account. In 1879, c. 176 §2 (presently c. 206 §30) was enacted, permitting the court to appoint a guardian ad litem to represent a person not in being or a minor who may have a contingent interest in a trust. In 1851, c. 324 §2 (presently c. 210 §5) was enacted which provided that a guardian ad litem may be appointed to give or withhold consent in an adoption proceeding, when the individuals from whom consent is required do not appear after notice is served. In 1923, c. 432 (presently c. 215 §56A) was enacted which provided that a guardian ad litem may be appointed to investigate the facts of cases involving questions as to the care, custody or maintenance of minor children, in divorce proceedings.

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Statutory Appointments

The probate court has the general authority to appoint a guardian ad litem to act as the next friend of a "...minor, mentally retarded person, an autistic person or a person under disability, or a person not ascertained or in being, who may have an interest in any property or in the enforcement or defense of any legal rights in any case before the court."[9]

The probate court may also appoint a guardian ad litem "to investigate the facts of any proceeding pending in said court relating to or involving questions as to the care, custody or maintenance of minor children." This guardian ad litem must file a report in writing with the court. The report is available to all parties in the proceedings and to their attorneys.[10]

Medical Guardianships

Guardians and courts face complex decisions regarding medical and psychiatric treatment for incompetent persons.[11] The increase of treatment decisions is primarily due to the growth of medical technology and the expansion of due process principles in their application to the restriction of personal liberties.[12] Medical technology has led to a greater understanding of the nature of certain mental disabilities. This technical understanding, coupled with the expansion of due process principles, has led to an increase in both the numbers of guardianship proceedings and the medical complexity of these proceedings. The substantive questions raised in guardianship proceedings have also changed due to increased medical technology. The procedural due process protections accorded respondents in guardianship proceedings involving complex medical proceedings have not changed significantly. The level of due process accorded the alleged incompetent individual in the guardianship proceeding is an important factor in assuring adequate process when making crucial medical, psychiatric and rehabilitative treatment decisions.

The only significant changes in the procedure governing guardianships in complex medical cases took place in 1985. This statutory change requires the appointment of an attorney for the ward in cases involving the administration of antipsychotic medications. An attorney also must be appointed for the ward in guardianship cases seeking the authority to admit the ward to a locked mental health facility.[13] There is no requirement to appointment of counsel for the ward in guardianships involving sterilization, the removal of life support equipment, the removal of feeding tubes, or any other extraordinary medical treatment. Most probate court judges appoint counsel for the ward in these cases, although the authority for such appointment is unclear. The Supreme Judicial Court requires the appointment of a guardian ad litem and has expressly stated that the appointment of counsel is not required.[14] Thus a guardian ad litem is often the only person representing the alleged mentally ill individual in the guardianship proceeding. As such, the role of the guardian ad litem is important in the adequacy of due process.

Finally, the guardianship statute provides for the appointment of a physician or a licensed psychologist to examine the respondent and report their conclusions to the court.[15] Many probate judges appoint an expert under this authority and designate such person as a guardian ad litem.

Termination of Parental Rights

The probate and family court has jurisdiction to hear cases to dispense with the consent of natural parents in certain adoption proceedings.[16] The Department of Social Services or a private child welfare agency is usually the petitioner in these cases. The petitioner must prove that the parents of the child are unfit and that it is in the child's best interest to be adopted. If the parents contest the petition, they and the children are afforded the right to counsel.[17]

Practice Xa of the Uniform Probate Court Practices provides that the court may in its discretion appoint a guardian ad litem in contested cases. This practice further requires the court to specifically designate the role of the guardian ad litem as "GAL-investigator, GAL-evaluator, or GAL-next friend." The Department of Social Services generally requests the appointment of a guardian ad litem in contested cases where the department is the petitioner. Also most probate judges appoint a guardian ad litem in contested termination cases regardless of the identity of the petitioner. The notices of appointment generally do not designate the role of the guardian ad litem as required Practice Xa, but the usual practice is for the guardian ad litem to act as an investigator. Many of these cases involve parties, either one of the parents or, in some cases, the children who cannot competently participate in the litigation and who may require a guardian ad litem to stand in their place and consult with their attorney. The Uniform Practice clearly contemplates such appointments, but they are made infrequently.

Petition to Approve an Estate Plan

The guardian of a minor or a mentally ill or mentally retarded person must apply all the ward's property for the ward's well being. Circumstances may arise where the available funds exceed the amount required for the ward's maintenance and support. The guardian or conservator in such circumstances may petition the court for permission to dispose of the funds "in such fashion as the court shall approve as being in keeping with the ward's wishes so far as they can be ascertained".[18]

It is the practice of all probate courts to appoint a guardian ad litem whenever a petition for the approval of an estate plan is filed. M.G.L. c. 201 § 34 provides the likely authority for such appointment. The statute states that the guardian ad litem should act as the "next friend" of the ward. However the universal practice in such cases is for

the guardian ad litem to file a report with the court and make a recommendation concerning the proposed plan.

The Allowance of Accounts

All fiduciaries appointed by the probate court are required to obtain the approval of the court for the expenditure of all funds under the control of the fiduciary. The fiduciary must file a petition for the allowance of the account and give notice to all persons interested in it. If there are persons interested in the account who have not received notice or if the interests of persons "unborn, unascertained or legally incompetent to act on their own behalf are not represented", the court must appoint a guardian ad litem to represent such interests. The court expects this guardian ad litem to review the accounts, including the receipts and expenditures made by the fiduciary. The guardian ad litem must assent to the allowance of the accounts or raise any objections.

Divorce

The probate court may appoint a guardian to appear and answer for a defendant in a divorce when the defendant is incapacitated by reason of mental illness.[19] The court may appoint a guardian under this section upon the plaintiff's assertion that the defendant is mentally ill and incapacitated. The statute does not provide for a hearing to determine the defendant's capacity, and there are none of the protections afforded the mentally ill person in a guardianship petition brought under M.G.L. c. 201 § 6. The guardian appointed pursuant to this section has limited authority to appear and answer in the divorce proceeding.

In any divorce action the probate court may also appoint an attorney to investigate and report to the court. In addition, the court may direct the attorney to defend the action.[20] The statute does not refer to this attorney as a guardian ad litem, however he may be asked to perform many of the same tasks as a guardian ad litem.

Roles of Guardians ad Litem

The use of guardians ad litem in probate court proceedings has expanded in the past fifteen years. This expansion is a result of the diverse and complex questions that are now presented in the probate court.

The issues raised in guardianship proceedings today place a greater responsibility on the court to understand the nature and extent of the ward's disability and to protect the ward's rights.[21] Appointing a guardian ad litem aids the court in this task. The increase of guardian ad litem appointments indicates an attempt to provide basic due process to the alleged incompetent person. Although the appointment of a guardian ad litem is a step toward providing due process, a survey of probate court judges in Massachusetts conducted by the Mental Health Legal Advisors Committee in 1983 revealed that there is very little uniformity in the function that guardians ad litem perform in guardianship proceedings.

The increase in sexual and substance abuse in society has also complicated the issues arising in domestic relations and termination of parental rights cases. The complexity of these issues and legal precedents protecting personal and civil rights have contributed to a greater use of guardians ad litem in these proceedings.

The increased use of guardians ad litem in probate proceedings demonstrates an attempt to provide greater due process to minors or persons under a disability who are involved in these proceedings. However, there is virtually no recent statutory or case law that gives any guidance regarding the function of guardians ad litem in these varying proceedings. This lack of uniformity in function is exacerbated by the absence of instructions to guardians ad litem by the appointing probate court judge. Further, probate judges, as a whole, do not have a consistent view of the function of guardians ad litem in probate court proceedings.

The authors have identified a number of frequently utilized functions of guardians ad litem in probate court proceedings. One role that has a rich historical basis is the guardian ad litem acting as a substitute decision maker for the alleged incompetent person. A second role, with a statutory basis, is the guardian ad litem who is appointed to investigate the facts of the case and make a written report to the court. A third role that has been advocated to insure due process is the guardian ad litem acting as attorney for the minor or person under disability. The balance of the article will describe and critique these roles.

Guardian ad Litem as Substitute Decision Maker

The traditional role of a guardian ad litem is to "appear and act" in litigation on behalf of a "person unborn or unascertained, a minor or any other person under disability":[22]

> He is not a trier of fact like a master, whose findings after confirmation by the court become the factual basis of the decree. The guardian ad litem's findings have no authoritative standing as establishing the facts of the case. The making of impartial authoritative findings is inconsistent with the duty of the guardian ad litem to represent the parties whose interests he is appointed to protect. The subject matter of his findings must be proved by evidence and found by the judge as must other matters of fact pertinent to the issues.[23]

As the court in *Young v. Tudor* described, the role of a guardian ad litem is to protect the interests of the ward. To protect a ward's interests, the guardian ad litem must necessarily determine what those interests are. Historically, the guardian ad litem assessed the ward's position and made an objective determination of what he believed to be in the best interests of the ward. The guardian ad litem then took all the lawful steps necessary to procure a judgment in harmony with those best interests.[24]

Medical treatment cases have refined the method for determining the "best interests" of the ward. Rather than the guardian ad litem determining what he believes to be

in the ward's "best interests," the guardian ad litem decides what the ward would determine to be in his "best interest," if he were competent.[25] This refined method for determining the ward's "best interests," the substituted judgment determination, requires that the guardian ad litem:

> attempt to ascertain the ward's actual interests and preferences. In short, decisions . . . should be that which would be made by the incompetent person, if that person were competent but taking into account the present and future incompetency of the individual as one of the factors that necessarily enters into the decision-making process of the competent person.[26]

The substituted judgment determination attempts to insure that decisions concerning an individual's personal affairs remain fundamentally with that individual, thereby allowing, to the greatest extent possible, the individual to exercise his own freedom of choice.[27] Substituted judgment determinations strive to attain an equity between the rights afforded to competent individuals, and the rights afforded to incompetent individuals, in making crucial personal decisions.

The principal distinction between the traditional "best interest" test and the substituted judgment determination lies in the weight accorded by the guardian ad litem to the ward's actual values and preferences.[28] In a "best interests" determination a decision is made by the guardian ad litem on behalf of the ward. In a substituted judgment determination, the decisions are made, to the greatest extent possible, by the ward and are asserted by the guardian ad litem.[29]

Analysis

Guardians ad litem acting as substitute decision makers for respondents who do not have counsel undermine the adequacy of due process accorded those respondents in probate court proceedings. One factor that affects the adequacy of due process is the vast discretion given the guardian ad litem in determining the "best interests" of the respondent. Another factor that impairs the adequate delivery of due process is the guardian ad litem essentially acting as a guardian to the respondent before he has been found by the court to be legally incompetent, or in cases involving custody of children, before the child's parent or legal guardian is determined to be unfit.

When a guardian ad litem acts as a substitute decision maker, he has total discretion to determine what is in the respondent's "best interest." Recent medical treatment cases have stated the respondent's actual preferences and interests should be strong factors in determining the "best interests" of the respondent. If the issue before the court does not involve consent to extraordinary medical treatment, the guardian ad litem is not required to elicit the respondent's desires and incorporate them into his determination of "best interest."[30] Unless the guardian ad litem makes a point of trying to ascertain the respondent's feelings and preferences concerning the issues before the court, the respondent's individual goals and desires may go unrecognized. When an individual's personal rights can be unnecessarily deprived because a legal proceeding does not reveal that individual's actual capabilities, the due process protections in such a proceeding are inadequate. When such immense discretion is given to the guardian ad litem, there are inadequate assurances that the guardian ad litem will investigate the circumstances and communicate sufficiently with the respondent. Without such investigation and communication the respondent's "best interests" may not be revealed. In some ways, guardians acting as investigators for the court give the respondent greater due process in this regard. Guardians ad litem acting as investigators must submit reports that describe the facts that support their conclusions and recommendations. This insures that adequate investigation was done, whereas, there are no similar assurances when the guardian ad litem acts as a substitute decision maker. The guardian ad litem's wide latitude in recommending a disposition of the case, in conjunction with the weight the court bestows upon his recommendations, erodes the adequacy of due process in the many probate court proceedings.

In Massachusetts, an individual is presumed competent until he is adjudicated incompetent. A guardian is appointed subsequent to the adjudication of incompetence. It is the guardian's duty to act in the "best interests" of his ward. If a guardian ad litem acts as a substitute decision maker, the role he adopts toward the respondent is, in essence, the same as the role the guardian adopts toward his ward. The appointment of a guardian ad litem acting as a substitute decision maker is not so inappropriate in all cases. For example, a tort case involving a child requires such a guardian ad litem to enable the child to pursue a legal remedy. However, when the basic issue is competence, appointing a guardian ad litem who acts with the same standards as a guardian inherently undermines a presumption of competence. Guardians ad litem acting as substitute decision makers imply that the individual is incompetent to represent himself in the proceeding. This unavoidable implication seriously prejudices the court's impartial determination of the adjudication of incompetence. The guardian ad litem acting as a substitute decision maker is no longer protecting the respondent's interests. Rather, in this capacity, the guardian ad litem is tangible recognition of the respondent's inability to independently manage his own affairs.

Guardians ad litem acting as substitute decision makers create the same risk of a nonadversarial proceeding as guardians ad litem acting as investigators. Once a guardian ad litem determines that is in the "best interests" of the respondent to have a guardian appointed, there is no one representing the respondent to oppose this recommendation, or to counter the recommendation with a proposal for a limited guardianship. The lack of representation that can occur when the guardian ad litem acts as an investigator or substitute decision maker is the most flagrant deprivation of due process to the alleged incompetent person in the guardianship adjudication. The possibilities of abuse of discretion, the erosion of a presumption of competence

and the prospect of virtually no representation, undermine the adequacy of due process in the guardianship proceeding. Accordingly, the guardian ad litem should not act as a substitute decision maker for the alleged mentally ill individual in such proceedings.

Guardian Ad Litem as Investigator

The second role the guardian ad litem may adopt is that of fact finder. A guardian ad litem, acting in this capacity is in essence a judicially appointed investigator.[31] The guardian ad litem interviews all the individuals involved: the petitioner, respondent, attorneys, psychiatrists, psychologists, physicians, social workers, or other clinicians who might have information relevant to the issue. In addition, the guardian ad litem may interview any friends or relatives of either the petitioner or respondent, as well as school officials, teachers or ministers who might add perspective to the proceeding. The guardian ad litem then submits his report and conclusions to the judge presiding in the matter. The report will usually consist of: a brief reiteration of who appointed the guardian ad litem, when, and for what purpose; persons consulted; a statement of the question; a statement of facts that includes both background and the present situation; and conclusions and recommendations.

The guardian ad litem's report has considerable weight in most cases. A well-written report contains accurate and objective information.[32] Statements obtained from persons interviewed must be clearly identified as such. Statements obtained by experts may be professional opinions or personal observations; the guardian ad litem should distinguish these two types of statements. In order for the parties to make full use of the report, the source of every statement must be appropriately identified.

The report should also differentiate between allegations that have been substantiated and those that have not been substantiated. In addition, any guardian ad litem who includes opinions or predictions must also describe those facts and observations he has relied on in forming an opinion. Any facts he has discarded or discounted also should be included with a statement of the reason the fact has been discarded or discounted. The guardian ad litem's report is subject to a motion to strike. The guardian ad litem may also be called as a witness and is subject to cross-examination.[33]

When a guardian ad litem acts as an investigator to the court, his role is very similar to that of a master.[34] Like a master, the guardian ad litem must make findings. The guardian ad litem is not permitted to formulate opinions as to the legal effect of the facts found by him.[35] The investigator's findings of facts, like the master's finding of facts, are submitted to the court and carry considerable weight in determining the outcome of the case. The guardian ad litem's report, like the master's report, is often not only evidence but the entire basis of the court's decision. Although there are many ways in which a master and a guardian ad litem acting as an investigator to the court differ, there is a basic similarity because they are both appointed as an arm of the court to evaluate and make decisions on the facts of a case.

Analysis

There are several factors that affect the adequacy of due process given a party in a probate court proceeding when the guardian ad litem acts as an investigator for the court. One factor is the court's fact finding process. A second factor is the lack of representation for the respondent. A third factor is an inherent conflict in roles that exists when the guardian ad litem acts as an investigator for the court.

In any proceeding that involves important personal rights, it is important to analyze the means by which the court receives and evaluates evidence. When the guardian ad litem acts as an investigator for the court and the party whose rights are at stake does not have independent legal counsel, the court bases its decision on limited sources of evidence: the guardian ad litem's report, and the evidence put forward by the other parties in the case. As the judge perceives the guardian ad litem as the court's investigatory arm, the guardian ad litem's representations are given considerable weight. In some cases, the guardian ad litem's report is incorporated into the judge's report of material facts. Because of the weight accorded the guardian ad litem's report, it is essential to recognize its limitations. The guardian ad litem formulates conclusions based solely on his investigation. His recommendations necessarily reflect only his perspective of the situation before the court. The guardian ad litem makes factual determinations in the same way as a master. The weight accorded those findings by the court is similar to the weight accorded a master's findings. But the master has the benefit of hearing the two opponents set forth their respective positions before making any factual determinations. The guardian ad litem does not reach conclusions of fact through an adversary proceeding, and he does not follow any rules of evidence. Therefore, the risk of certain facts not emerging or the emphasis or de-emphasis of certain facts is increased.[36] The potential for inaccurate fact finding when the guardian ad litem acts as an investigator for the court, and the weight the court gives to these potentially inaccurate facts, decrease the due process protections accorded an unrepresented party in the probate court. Accurate fact finding is a cornerstone of the judicial process. Any procedure that undermines the adequacy of fact finding undermines the accuracy and consequently the fairness of any judicial decisions based on those facts.

In many cases the probate court appoints a guardian ad litem to act as an investigator for the court without appointing an attorney to represent the disabled person who is before the court. This may seriously affect the adequacy of due process afforded the disabled person. As an investigator for the court, the guardian ad litem is an impartial fact finder. The investigator must report the disabled person's statements to the court, because they are not

confidential, and the guardian ad litem has an obligation to report all statements. The investigator is free to disregard the wishes of the disabled person. The guardian ad litem represents neither the petitioner nor the respondent. Unless the respondent has the prudence and financial ability to hire an attorney, or the court appoints one for him, his unique and essential perspective may not be submitted to the court. The lack of an individual to represent the respondent's views to the court undermines one of the fundamental precepts of the American judicial system: the adversarial proceeding.[37] The process of judicial decision making assumes that the opposing parties will present evidence in a light most favorable to each respective position. It is this presentation of opposing evidence that leads to the development of a full record upon which the court makes a decision. In a guardianship proceeding, if the petitioner presents facts that best support an adjudication of incompetence, and the guardian ad litem recommends that a guardian should be appointed, there is no one representing the respondent and arguing that the appointment of a guardian is not justified, or that the guardianship should be limited to certain areas. The lack of representation that occurs when a guardian ad litem acts as an investigator for the court deprives the respondent of the ability to protect the substantial liberty and property interests that are at stake.

Many of the interests at stake are constitutionally protected. Accordingly, even the most minimal due process protection requires the court to appoint a person to represent the interests of an individual who may be incapable to adequately represent himself. The guardian ad litem is historically the individual who is supposed to perform that role. However if a guardian ad litem acts as an investigator for the court, and the disabled person is not afforded counsel, the respondent is deprived of adequate due process in the guardianship proceeding in two significant ways: 1) the basis of the court's decision is largely the result of one individual's perceptions, and 2) there is no one representing the respondent to dispute the guardian ad litem's investigation and recommendations.[38]

A third problem that arises when the guardian ad litem acts as an investigator for the court is a conflict of roles that occurs. When the guardian ad litem is acting as an investigator for the court, he is an arm of the court and accordingly has a duty to disclose all the facts he discovers to the court. Yet even a guardian ad litem who is appointed as an investigator is supposed to protect a person who cannot adequately represent himself. When acting in this traditional capacity, the guardian ad litem is an advocate for the respondent's best interests. The conflict in role occurs when the best interest of the respondent requires that certain facts not be disclosed to the court. This role conflict is analagous to the conflict that occurs when an attorney is torn between his duties and obligations as an officer to the court and his obligation to preserve his client's confidences. Fortunately, attorneys have some guidelines and ethical mandates that assist them in weighing these competing interests.[39] Guardians ad litem do not have a code of professional conduct that lends guidance in these situations. A guardian ad litem may not even be aware that a conflict in roles has arisen. Attorneys clearly have two competing interests, but as guardians ad litem do not have an obligation to keep any discussions with the respondent confidential, there may not even be any clearly defined competing interests. This is unfortunate because instances will occur when the best interests of the respondent will not be served by transmitting certain information to the court. On these occasions it is important that the guardian ad litem balance the two interests: that of the court, and the respondent, then consciously decide to follow a course of action. However the guardian ad litem as investigator cannot balance the issues; he must report the information to the court.

When a guardian ad litem acts as an investigator for the court the respondent is at risk of being denied adequate due process in a number of significant ways. Unless he has the resources and the presence of mind to hire an attorney, or the court appoints an attorney, the respondent does not, as a matter of course, receive any representation in the probate court proceeding. The facts that support the court's decision are not reached by an adversarial process. Inherent role conflicts may occur without a guardian ad litem even being cognizant of the occurrence. For these reasons, it is inappropriate for guardians ad litem to act as investigators for the court in guardianship proceedings unless all parties are adequately represented by counsel. This may require the probate court to appoint counsel in addition to the guardian ad litem in many cases.

Guardian ad Litem as Attorney

The third role of a guardian ad litem is that of attorney for the ward. In this capacity, the attorney acts as an advocate for the ward's interests and as a legal adviser. In some extreme cases he may be called upon to act as a substitute decision maker.[40] The guardian ad litem-attorney, as any attorney employed by a competent client, is prepared to advocate the ward's position, cross-examine opposing witnesses, and make arguments just as he would if he had a competent client who had retained him to oppose the petition.[41] This role of the guardian ad litem is preferred to avoid cases where only one side of an issue is presented.[42] A one-sided judicial proceeding denies the judge a fully developed record on which to base his decision and thereby denies the ward the full benefits of due process. The guardian ad litem presents all reasonable arguments to oppose the petition because he must eliminate the due process deficiencies implicit if a party is unable to represent his own interests.[43] In doing so,

> the guardian's function is to facilitate the development of a full record and thus increase the likelihood that the court's disposition will be consistent with the proper substantive standard. The guardian ad litem as an attorney should attempt to discredit evidence presented by the petitioner

regardless of his personal beliefs as to its validity or accuracy. Evaluating the weight or accuracy of the evidence is the role of a factfinder not the attorney.[44]

In addition to developing a full record upon which the court may base a decision, the guardian ad litem can appeal any findings that he feels are inadequately supported by the evidence. The guardian ad litem may also appeal a decision that he believes was based on an improper rule of law.[45]

Analysis

Many of the shortcomings of the guardian ad litem acting as an investigator or substituted decision maker are eliminated when the guardian ad litem acts as an attorney. The respondent's interests and positions are asserted to the court; there is an individual present to oppose the petitioner's allegation of facts; a full record is developed; and the court has the benefit of hearing two opposing views of the issue before making a decision. However, when a guardian ad litem acts as an attorney in a probate court proceeding, the problems do not stem from a lack of adequate due process. The problems are caused by the inherent drawbacks and limitations of the adversarial process.

An attorney's traditional role in an adversary proceeding is to vigorously represent his client. If his client is opposed to the desires of the petitioner, the attorney must vigorously oppose them, using all appropriate legal strategies. In many probate court proceedings the petitioner and the respondent are members of the same family. The attorney through rigorous opposition and representation of his client's interests may alienate the parties. After the adversary proceeding, the parties (guardian and ward, parent and child, etc.) must attempt to effectuate open communication so that they can continue to work together to further the interests of the respondent. A heated adversary proceeding may make this process much more difficult. Additionally, attorneys' participation in certain proceedings tends to draw these proceedings out and cause them to be more costly. Many probate court proceedings are family issues. The entrance of two or more attorneys can produce dissent among the family members.

Guardians ad litem acting as attorneys face another set of problems. There may be a conflict between the traditional role of attorney and the obligations of the guardian ad litem. This occurs when the court appoints the guardian ad litem under the assumption that the respondent is not competent to make her own decisions and consult with an attorney. This guardian ad litem cannot fulfill the traditional role of an attorney. An attorney is mandated by the Code of Professional Responsibility to take direction from his client.[46] Ethical Consideration 7-12 addresses an attorney's added responsibilities if his client is under a physical or mental disability that renders the client incapable of making a considered judgment on his own behalf. In these situations Ethical Consideration 7-12 clearly mandates: "If the client is capable of understanding the matter in question or of contributing to the advancement of his interests, regardless of whether he is legally disqualified from performing certain acts, the lawyer should obtain from him all possible aid."

In complying with Ethical Consideration 7-12, the guardian ad litem acting as an attorney must adequately determine his client's interests and desires in the outcome of the proceeding. The guardian ad litem must attempt to educate the client as to the applicable law and the possible legal and practical ramifications of the probate court action. During this explanation, the guardian ad litem must try to elicit from the client his feelings and preferences concerning the possible outcome. The guardian ad litem should also, ideally, aid the client in clarifying his values and wishes.[47] Although this task may be extremely difficult, it is imperative that the guardian ad litem receive as much direction from his client as the client is able to contribute. The guardian ad litem must consult with his client and ascertain the client's interests, values and preferences concerning the probate court proceeding. Only then can the guardian ad litem determine on what basis, and to what extent, he should oppose the petition. This may create a serious conflict if the client does not want to oppose the petition.

In a case involving the sterilization of an adult mentally retarded woman the Supreme Judicial Court stated:

> In order to guarantee a thorough adversary exploration of the difficult questions posed, the guardian ad litem should present all reasonable arguments in favor of the court's denial of the petition.[48]

In addition the court in a footnote stated that the appointment of an attorney for the ward "may be desirable in the discretion of the judge." The court clearly rejected the requirement of counsel for the ward in favor of a guardian ad litem who would oppose the petition. This may create a problem for the guardian ad litem who believes that the disabled person is making a competent decision not to oppose the petition and has no one to adequately represent her interests.

Conclusion

Guardians ad litem play a significant role in the delivery of due process protections in many cases in the probate and family court. Each appointment presents different problems for the attorneys and other individuals who are asked to serve. Is the attorney an investigator who must file a report with the court and who cannot maintain a confidential relationship with the respondent? Must the attorney oppose the petition when the disabled person agrees with the petitioner? Does the individual speaking on behalf of a child in a custody dispute ask the court to appoint an attorney to represent his ward's interests? Is it proper for the court to receive evidence from an individual who is not a party to the proceeding? Does the "guardian" for an incompetent defendant in a divorce proceeding act as her attorney or as an investigator? Should the court conduct a hearing before a guardian ad litem is appointed?

The appointment of a guardian ad litem raises many of these questions. The relationship between the guardian ad litem and the ward is difficult to define, and in some cases the parties and the judge do not agree on the reasons for the appointment.

It is the authors' belief that all persons who accept appointments to serve as a guardian ad litem must have a clear understanding of their role before beginning their work. Further, all the parties and the appointing judge must agree on the role. The authors suggest that the guardian ad litem begin each case with a letter of introduction to each party explaining the role the individual intends to fulfill. If there is any confusion or disagreement among the parties, the guardian ad litem should present a request for clarification to the appointing court.

Endnotes

1. M.G.L. c. 201 §§ 6, 6A, 6B.

2. M.G.L. c. 210 § 3.

3. M.G.L. c. 201 § 38.

4. M.G.L. c. 208 § 15.

5. M.G.L. c. 206 § 24.

6. Crump, *The Guardian ad Litem—His Origin*, 4 WEST RES. L. J. 178, 181 (1898). Although there was some controversy as to the adequate jurisdiction of the Chancery Court to appoint guardians ad litem, this controversy was resolved in favor of the Chancery Court in *DeManneville v. DeManneville*, 10 VESEY, 51.

7. *Id.*, at 180, *quoting* Chief Baran Gilbert, THE HISTORY AND PRACTICE OF THE HIGH COURT OF CHANCERY, at 204–05 (1700).

8. Buckingham v. Alden, 315 Mass. 383, 387, 53 N.E.2d 101 (1944) (acknowledging the probate court's broad grant of equitable powers to act in all matters relating to guardianship); M.G.L. c. 215 § 6; Lynde v. Vose, 326 Mass. 621, 96 N.E.2d 172 (1951); Superintendent of the Belchertown State School v. Saikewicz, 373 Mass. 728, 370 N.E.2d 417 (1977).

9. M.G.L. c. 201 § 34

10. M.G.L. c. 215 § 56A

11. Lane v. Candura, 1978 Mass. App. Div. Adv. Sh. 588, 376 N.E.2d 1232 (1978) (elderly woman with gangrenous leg did not wish to undergo surgical amputation); Superintendent of Belchertown State School v. Saikewicz, 373 Mass 728, 370 N.E.2d 417 (1977) (a profoundly retarded man, age 67, with leukemia); *In re* Spring, 1980 Mass. App. Div. Adv. Sh. 1209, 405 N.E.2d 115 (1980) (incompetent man receiving life-prolonging hemodialysis treatment); *In re* Richard Roe, III, 1981 Mass. App. Div. Adv. Sh. 981, 421 N.E.2d 40 (1981) (guardian's authority to consent to a forcible administration of antipsychotic medication to his noninstitutionalized ward absent an emergency); *In re* Mary Moe, 385 Mass. 555, 432 N.E.2d 712 (1981) (legal guardian of adult mentally retarded woman sought court order permitting sterilization of ward); Custody of a Minor, 385 Mass. 697, 434 N.E.2d 601 (1982) (withholding of potentially life-prolonging treatment from abandoned infant in the custody of the Department of Social Services).

12. The interaction between advancing medical technology and the expansion of due process is exemplified by the decisions surrounding minor donors consenting to live organ and tissue transplants. *See* Camitta v. O'Mealia, Eq. No. 73-86 (Mass., Apr. 25, 1973) (bone marrow); Nathan v. Clark, Eq. No. 73-71 (Mass., Apr.. 12, 1973) (bone marrow); Holden v. Hampers. Eq. No. 71-40 (Mass., Aug. 2, 1971) (kidney); *See, generally,* Baron, Botsford and Cole, *Live Organ and Tissue Transplants from Minor Donors in Massachusetts*, 55 B.U.L. REV. 159 (1975). *See* Rogers v. Okin, 478 F. Supp. 1342 (D. Mass. 1979); rev'd in part, 634 F.2d 650 (1st Cir. 1980), *vacated and remanded sub nom.*, Mills v. Rogers, SO U.S.L.W. 4616 (1982) (involuntarily committed mental patients seeking to enjoin the forcible administration of antipsychotic medication).

13. M.G.L. c. 201 § 6.

14. *In re* Mary Moe, 385 Mass. 555, 432 N.E.2d 712 (1981).

15. M.G.L. c. 201 § 6.

16. M.G.L. c. 210 § 3.

17. M.G.L. c. 119 § 29.

18. M.G.L. c. 201 § 38.

19. M.G.L. c. 208 § 15.

20. M.G.L. c. 208 § 16.

21. The doctrine of "least restrictive alternative," Shelton v. Tucker, 364 U.S. 479 (1960), has provided a basis for limited guardianships. Limited guardianships recognize that individuals can be competent to handle some, but not all, of their affairs. In these instances, a guardian is appointed to the ward but the ward retains the right to manage certain affiars. Guardianship of Bassett, 1979 Mass. App. Div. Adv. Sh. 186, 385 N.E.2d 1024 (1979). Limited guardianships require that the court understand the nature and extent of the alleged incompetent's disability.

22. M.G.L. c. 201 § 34; M.G.L. c. 206 § 24.

23. Young v. Tudor, 324 Mass. 508, 509, 83 N.E.2d 1 (1948).

24. Kingsbury v. Buckner, 134 U.S. 650 (1889); Tyson v. Richardson, 103 Wis. 397, 79 N.W. 439 (1899); Rankin v. Schofield, 71 Ark. 168, 66 S.W. 197 (1902).

25. Superintendent of Belchertown State School v. Saikewicz, 373 Mass. 728, 370 N.E.2d 417 (1977); *In re* Spring, 1980 Mass. App. Div. Adv. Sh. 1209, 405 N.E.2d 113; *In re* Richard Roe III, 1981 Mass. App. Div. Adv. Sh. 981, 421 N.E.2d 40 (1981); *In re* Mary Moe, 385 Mass. 555, 432 N.E.2d 712 (1981); Custody of a Minor, 385 Mass. 697, 434 N.E.2d 601 (1982).

26. Superintendent of Belchertown State School v. Saikewicz, 373 Mass. 728, 370 N.E.2d 417 (1977).

27. Custody of a Minor, 385 Mass. 697, 434 N.E.2d 601 (1982).

28. The Supreme Judicial Court of Massachusetts has recognized there may be instances when the decision reached by objectively determining an individual's "best interest" and decisions reached by utilizing the substituted judgment doctrine may conflict. When this conflict occurs, the court should honor the incompetent individual. Balancing any state interests against the substituted judgment determination allows an incompetent individual the "right to be wrong" that is accorded competent persons. *In re* Richard Roe III, 1981 Mass. App. Div. Adv. Sh. 981, 1017 n. 20, 421 N.E.2d 40, 59 n. 20 (1981); *In re* Mary Moe, 385 Mass. 555, 432 N.E.2d 712, 720 (1982).

29. In both *In re* Mary Moe, 385 Mass. 555, 432 N.E.2d 712 (1981) and *In re* Richard Roe III, 1981 Mass. App. Div. Adv. Sh. 981, 421 N.E.2d 40 (1981), the Supreme Judicial Court stresses the need for both the guardian ad litem and the court to ascertain the individual's actual preferences regarding the outcome of the

Who Needs a Lawyer?

Martha Soshnick

The Boston Daily Globe American

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A Superior Court Jury awarded One Million Dollars to Nancy Kidd in a lawsuit against her former court-appointed lawyer, Mary Jones. Wanamaker Buck, a noted Boston trial lawyer who represented Ms. Kidd in the lawsuit, said that Ms. Jones had been court appointed to represent Ms. Kidd, who was then two years old, in two cases; one involving the termination of her natural parents parental rights and the other, her adoption. Mr. Buck said that Ms. Jones, believing it to be in the best interests of Ms. Kidd that she be adopted, even though it was against the wishes of her natural parents, did not oppose the adoption.

The judge in the adoption case noted that Ms. Kidd had been represented throughout the proceeding by a lawyer who was charged with acting in her client's best interests, and that he had given her lack of opposition considerable weight in granting the adoption.

Mr. Buck said that he was able to show that even though Ms. Jones was well meaning, the adoption was a tragic mistake for his client, and because Ms. Jones lacked the professional training and skills to make such a decision on behalf of her client, she should not have done so.

The foregoing story, while drafted tongue in cheek, nevertheless reflects the author's concern about the appointment of attorneys to represent children and guardians ad litem (GAL), almost interchangeably. Unless the functions and duties of these respective offices are more clearly defined and understood, it would not surprise the author if litigation such as the one hypothesized above were to become a reality.

Where one is representing an incompetent minor by court appointment, unless there are specific instructions given to counsel, either in the appointment, by case law or statute, an attorney must be a zealous advocate for the client's cause, should not waive any meaningful rights that the client might have, or knowingly act contrary to the client's "best interests".[1] This is easier said than done! One can sympathize with the position of a lawyer in such cases by analogizing to the house painter who is hired to paint a house. When inquiry is made of the customer as to the color desired, the response is "you will know when you have used the right color." Fortunately for lawyers, the situation is not that bad.

Absent situations where there are specific guidelines or instructions set down, such as in *Rogers* type cases,[2] the purpose of this article is to discuss the disparate role of counsel for incompetent clients who can provide little if any assistance to counsel and their Guardians ad Litem.

In some cases involving mentally incompetent persons, the role of counsel is very clear. When an attorney is appointed to represent a ward in a guardianship petition which seeks the authority to admit that person to a mental health facility to which the client does not wish to be committed, or in a *Rogers*-type case where the petitioner seeks to administer medical treatment to an institutionalized person against his/her will, the attorney *must* always adopt an adversarial position.

In addition, the Chief Justice of the Probate Court has established standards for use by appointed counsel in Rogers-type cases.[3] These require that "counsel for the ward will represent him and act as his advocate." Acting as the advocate of such a person means that the attorney must assume that the client opposes the proposed treatment and therefore vigorously oppose it. Counsel does not have the right to act in loco parentis and adopt a paternalistic mode of representation.

Under the American Bar Association Code of Professional Responsibility an attorney is required to obtain "all possible aid" from a client who is cognizant of the matters before the court or capable of assisting in the furtherance of his interests, even if only on a limited basis.[4]

In his paper, "*The Role of the Guardian ad Litem and Attorney for the Child in a Child Custody Case*"[5] David Goldman Esq. takes the position that where an attorney represents a child not capable of instructing counsel, then counsel should act as an advocate "by appropriate substitute judgment representation", which emphasizes what the child might wish to be done as opposed to what counsel might think is in the best interests of the child." By urging this course of action it seems that Mr. Goldman recognizes the problem faced by many lawyers who substitute their own personal judgment on behalf of clients.

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In a recent advisory opinion,[6] effectively reversing an earlier opinion,[7] the MBA responded to an ethical inquiry concerning the obligations of counsel for a minor where counsel is instructed by the minor client to act in a manner which counsel and other professionals believe is not in the best interests of the minor. The opinion states that counsel is obligated to follow the wishes of the minor, unless counsel determines that the child is incapable of making a considered judgment on his/her own behalf, and is therefore "incompetent." It goes on to say that "If the lawyer determines that the client's lack of maturity reaches a level of incompetence, he may make some decisions on behalf of the client. The lawyer should make these decisions, however on the basis of what the child would desire if she were competent to understand her options and express her wishes.[8] Alternatively, a lawyer may seek the appointment of a Guardian ad Litem for the child,[9] but should first discuss the appointment with the child."

Another writer has taken a position quite similar to the one taken by Mr. Goldman and the MBA. She advises that counsel ". . . be an advocate for the child and . . . determine the child's interests and needs and advocate for a position consistent with that determination."[10] In fact she proposes that "counsel representing a child must not act according to what she thinks the particular child should want, but according to what she thinks this child would desire could he understand his options and make his wishes and needs known."[11]

Yet another author also takes a similar position. Shannon L. Wilber Esq., a staff attorney for the San Francisco Youth Law center has written that ". . . attorneys should not accept appointments in which they are expected to advance their own idea of the child's best interests. Such an approach skews the adversarial process and compromises the attorney's ability to serve her client. Only by serving as the child's voice can attorneys assist the court to reach fair and informed decisions."[12] Ms. Wilber further advocates that, "Only when the child is unable to articulate a reasoned preference should the attorney substitute a judgment for that of the client. The attorney should then advocate the position which she determines her client would take if the client were able to direct the litigation."[13]

The Governor's Commission[14] recognized that the use of the term "GAL has been a source of great confusion." For example, in *The Matter of Mary Moe*,[15] wherein a mother, acting as guardian of a mentally retarded daughter, petitioned the court for permission to have her daughter undergo a sterilization operation, the Appeals Court described the adversarial position as belonging to a GAL. The Court said that in such a situation, the court *must* (emphasis supplied) appoint a Guardian ad Litem to represent the ward and that . . . the Guardian ad Litem should present all reasonable arguments in favor of the court's denial of the petition, so that all viewpoints and alternatives will be aggressively pursued and examined at the subsequent hearing. This adversary posture will ensure that both sides of each issue which the court must consider are thoroughly aired before findings are made and a decision rendered." The Court commented in a footnote that while an attorney for the ward had been appointed by the trial court in its discretion, the appointment was not required.[16]

It is interesting that while under the Federal Rules of Civil Procedure the appointment of a GAL is discretionary.[17] Various Circuit Courts have held it to be error when a court has failed to make such an appointment when one was "necessary".[18]

Among the significant recommendations of the Governor's Commission on the Unmet Legal Needs of Children, most of which have unfortunately been ignored by the Legislature, was the proposal to define the functions of Guardians ad Litem by having the court specify the specific role of the GAL; whether the appointee would function (a) as a Guardian ad Litem-Next Friend who would be an attorney, (b) a Guardian ad Litem-Investigator who could be an attorney or other appropriate professional, or (c) as a Guardian ad Litem-Evaluator, who would be a mental health professional.[19] If the appointment requires the GAL to make recommendations, one must conclude that the proponents of the legislation intended that the GAL would do so based on a personal view of what would be in the child's "best interest." Attorneys not acting as a GAL would represent the child's wishes, as expressed by a child capable of such decision, a role more consistent with an attorney's customary representation of any other client. The Governor's Commission also recommends that the attorney, not the GAL, should be responsible for advocating the child's individual interests, "particularly if the child is old enough to communicate his or her own wishes."

The debate concerning the roles of attorneys and Guardians ad Litem has been ongoing for a considerable period of time. In an article written in 1971 by Monroe L. Inker, and Charlotte A. Perretta, Esqs,[20] entitled "*A Child's Right to Counsel in Custody Cases*"[21] the authors, in a rather avant garde position for that time, advocated that children in custody proceedings should be entitled to counsel and that by seeking independent evidence in custody proceedings the court would be releasing itself "from the shackles of partisan advocacy . . ." They went on to advocate that since the Supreme Judicial Court decision of *In Re Gault*[22] recognized that children had Constitutional rights in juvenile proceedings, it was logical that such rights should be extrapolated into all pro-

ceedings involving children. This article, which was a precursor of things to come, went on to say that "The best interests of a child can best be determined on the basis of objective, independent evidence as to what those interests are. This evidence can best be made available to the court if the child is given independent counsel." In a perceptive and intuitive recognition of problems which would be encountered by counsel in representing children in custody cases the authors said, "The lawyer must control any subjective feelings he may have as to choice of parents; he must be totally dedicated to the protection of the child's best interest."[23]

In a later article published in the Boston Bar Journal,[24] Judge Edward Ginsburg seemed to concur in the thesis advocated by Mr. Inker and Judge Perretta and carry it a step further. He recognized that the courts had been experimenting with the appointment of counsel as "opposed to GAL" to represent children in contested custody hearings. He agreed that the role of counsel for a child was to provide the court with information and/or a perspective different from that of the parents and distinguished this from the traditional role of the GAL, who as an investigator is subject to examination at trial, by saying that the attorney is a participant whose function is to see to the introduction of all relevant evidence. He urged that counsel be guided by a child's expression of preference if the child is old enough to express preferences.

In his article, Judge Ginsburg dealt with the question of counsel's role where the child is too young to express a rational preference by analogizing the role of counsel to that of a GAL in determining what is in the best interest of the child. His position seemed to be made fairly clear by the following recommendations. "Obviously this area of concern raises important questions regarding manpower. Is the legal profession prepared to undertake the important role of counsel for children? I think the answer is that it should be . . . . Should we not be thinking of something for juvenile and family law practice? We need to begin to train lawyers to handle cases concerning children. These lawyers should have some familiarity with psychology and child development in addition to traditional legal training in the core curriculum."

In an even later publication authored by Judge Ginsburg and Anita Robboy Esq.,[25] the authors took the position that there are differences between a GAL and counsel for a child, and distinguished between the two by pointing out that counsel can take depositions, question witnesses at a trial and generally function in the traditional manner of a lawyer. They also point out that counsel for a child does not testify.[26]

The authors also state that "The older and more mature the child, the more likely that the Attorney for the Child will be called upon to present the child's preference, as distinguished from what other persons, such as the Guardian ad Litem, may view as that child's best interests. The duty of the Attorney for the Child is to advocate his or her client's stated position, which with age and demonstrated maturity is given greater weight."[27] What is not made clear is who will decide the degree of maturity and the weight to be given to the child's stated wishes. Quite obviously, all decisions rest with court as the final arbiter, but without guidance, what position is to be advocated by counsel?

The Handbook does not contain guidance for counsel in determining the position to be taken on behalf of an infant who is unable to state a preference. These are very heavy responsibilities for the ordinary lawyer trained only in the law. Should one with no training in personality development be permitted or required to make such decisions? I suspect that which is taken for granted and therefore not addressed by the authors of the Handbook, is that appointments as counsel for children must be from among those who are also trained in or sensitive to issues of personality and human development.

Whether one agrees with non-legal specialized training for lawyers or not, what Judge Ginsburg recommended more than a decade ago, and what the Governor's Commission has also recommended, is that the role of counsel should be very clearly defined.[28] Unfortunately, while many attempts have been made to resolve this issue, the questions posed by Judge Ginsburg in 1979 are still being asked.

Imagine a case in which a defendant client instructs counsel to make a settlement offer, and counsel, because he/she disagrees with the client, does not communicate the client's offer to the other side. Also imagine a case where a settlement offer has been made by the defendant which plaintiff's counsel feels is inadequate and therefore does not advise the client about it. Assume that both of these cases are then tried; in the latter case there is a defendant's verdict and in the former, a verdict for the plaintiff. Is there any question but that both counsels acted improperly? Did not the choice belong to the client and not the lawyer? The author is unable to distinguish between the foregoing situations and one involving a child whose attorney makes value judgments or decisions for the client.

The ABA Code[29] mandates that lawyers act only in accordance with the best interests of the client. Unfortunately, the Code fails to define "best interests." It is worthy to note that where there is disagreement concerning management of a case between counsel and a GAL, the ABA Code of Professional Responsibility unequivocally comes down on the side of the GAL.[30]

With all due respect to the authors of the recent MBA opinion,[31] the author urges that whenever counsel

is appointed for a minor who is legally incompetent, particularly if the court is applying the "best interests" standard, value judgments should not be made by the lawyer. The role of Counsel, unless otherwise mandated by statute, rule of court or case law, is to seek Due Process for a client. If counsel has no instructions from a competent client, or unless the lawyer is acting pursuant to mandate as in a Rogers-type case, a request should be made to the court for appointment of a person with the authority to make judgments on behalf of a client and who may instruct counsel.

The author submits that it is inappropriate for an attorney to be anything other than an advocate for a client. There is no binding statutory authority, case law, or other precedent authorizing an attorney to substitute personal judgment for that of the client, even though the client may be legally incompetent or otherwise unable to verbalize a choice.

If attorneys cannot ascertain the wishes of a client, they should request the appointment of a Guardian ad Litem so that an independent opinion may be formed as to the best interests of the child and presented to the court.[32] In the absence of a GAL, the attorney should perform the customary adversarial function of making the petitioner fulfill its burden of proof.

Common sense might dictate that Guardians ad Litem should be professionally trained to make such decisions on behalf of the child. A lawyer per se is not such a person.[33] On the other hand, this would not preclude lawyers from acting in such a capacity if they are otherwise qualified to do so, nor prevent them from performing their customary roles and making those decisions usually reserved to the professional; such as stipulating certain facts, agreeing to enlarge time for responsive pleadings and other similar matters.

Many of the issues raised in this paper may seem to be contrary to long held popular beliefs. Nevertheless the author believes that the role of counsel suggested herein is in fact actually nothing new. This paper is an attempt to set down clearer definitions of the existing duties of counsel, some of which have either been ignored or overlooked.

Lawyers, by virtue of their education and training are experts in the law, not human personality. If counsel is not provided with proper guidance, such as instructions from or the opinion of a GAL, the lawyer's duty is clear. Play the devil's advocate, and make the parties prove their case. When lawyers are appointed to represent minor children they are appointed to advocate a child's best interests. Using one's own values and opinions to make such a determination may ultimately be found not to have been in that child's best interests. If this is the case, counsel may well be guilty of malpractice.

While a Guardian ad Litem is protected from liability when appointed to perform his/her duties, because in doing so the GAL is performing a quasi-judicial function,[34] a lawyer, even if court appointed, is not.

Notes

1. Ginsburg, *Family Law Handbook*, 219, (1984)
2. *Rogers v. Commissioner of Mental Health*, 390 Mass 498 (1983) See also instructions from the Chief Justice of the Family Court Department dated May 10, 1984 establishing procedures to be followed in cases brought under *Rogers v. Commissioner*, supra, and THE ROLE OF THE ATTORNEY IN *ROGERS*-TYPE GUARDIANSHIPS, prepared for the Mental Health Legal Advisors Committee by the Mental Disability Law Support Project Center for Public Representation, revised October, 1985.
3. See footnote No. 1, supra.
4. ABA Code of Professional Responsibility, EC 7-12
5. David Goldman Esq. *MCLE 1992 92-10.22* Evaluating a Child Custody Case.
6. MBA Opinion No. 93-6
7. MBA Opinion No. 76-1. Responding to inquiry from an appointed counsel in a CHINS (Child in need of Services) proceeding the MBA undertook to advise counsel as to their ethical obligations in situations when "... the action which he or she thinks would be in the best interests of the child is contrary to the expressed wishes of the child or the parents or both? (For example, what are the ethical obligations of a lawyer who believes that the interests of the child would be best served by removal of the child from the family home, but the child and the family protest?)" The Ethics Committee said that when a child ... "is unable to make an informed judgment as to what is in his or her own best interest, the lawyer (after obtaining 'all possible aid' from the child) has an obligation to the child to advocate to the court that disposition *which the lawyer believes* (emphasis supplied) to be in the best interests of the child, even if such a disposition of the case is not consistent with the expressed wishes of the child." The MBA also said that counsel was required to advise the court of the contrary views of the child and his or her reasons for believing that the child's desires are not in his/her best interests.
8. This is sometimes referred to as the substituted judgment method and is similar to that which is used in *Rogers* and *Moe* type cases.
9. Emphasis supplied
10. Jinanne Elder "The role of counsel for children: A proposal for addressing a troublesome question." 35 Boston Bar Journal Jan/Feb (1991)
11. *Id.* at 9
12. *Wilber*, 27 FLQ 3, at 349
13. *Id.* at 349
14. Report of the Governor's Commission on the Unmet Legal

FACT SHEET
AN ACT PROTECTING CHILDREN FROM DOMESTIC VIOLENCE IN CUSTODY AND VISITATION PROCEEDINGS

What Does The Bill Do?

- It creates a rebuttable presumption that parents who perpetrate a "pattern or serious incidence" of abuse against their spouses or children will not receive custody of the children in divorce, separation, and paternity proceedings

- When allowing visitation with the abusive parent, the court would provide for the safety and well being of the child and abused parent. These provisions might include, for example, requiring supervised visits or prohibiting the batterers' use of alcohol or drugs during visitation.

What Does The Bill NOT Do?

- The presumption is not triggered by the issuance of a Chapter 209A restraining order, or even a series of 209A orders. The Probate and Family Court must independently determine that a "pattern or serious incidence" of abuse has in fact occurred.

- It does not create a presumption against the award of visitation to the abusive parent.

- It does not limit or infringe upon either parent's due process rights to state their case before the court.

- It does not interfere with judicial discretion. The bill provides standards for the courts to ensure uniformity and equity in the custody and visitation process.

Why Do We Need This Bill?

- More than half of all persons who abuse their partners also abuse their children. An additional 80% of batterers threaten to abuse their children.

- It is estimated that 80% of children in homes with domestic violence witness the abuse. Children who witness violence between their parents have higher rates of suicide, substance abuse, and emotional, cognitive and behavioral difficulties. The SJC Gender Bias Study found that boys who witness their father battering a woman are more likely to become abusers than if they were abused themselves.

How Does Massachusetts Compare With Other States On The Issue?

- The vast majority of states require that domestic violence be considered as a factor in determining the best interests of the child in custody proceedings. The Massachusetts code only lists domestic violence as a factor to be considered in only a few limited custody situations, and not at all in visitation proceedings; a recent SJC ruling now requires courts to consider family violence as a factor in awarding custody.

- At least 14 other states have adopted a presumption that batterers will not receive custody of their children. Of these statutes, the proposed bill is the most protective of the batterers' rights and preserves the most amount of judicial discretion to determine the best interests of the child.

How Was The Proposed Bill Developed?

- The bill is based on -- and is even more moderate than -- the Model State Code on Domestic Violence developed by the National Council of Juvenile and Family Court Judges.

- The Massachusetts Supreme Judicial Court Gender Bias Study recommends that the Massachusetts General Court adopt a presumption against an award of legal custody to batterers.

- The American Bar Association National Conference of Special Court Judges, the ABA Litigation Task Force on Children, and the ABA Center on Children and the Law recommend that state legislatures adopt presumptions that custody not be awarded, in whole or in part, to a parent with a history of inflicting domestic violence.

Who Supports This Legislation?

A partial list of supporters includes:

- Governor's Commission on Domestic Violence
- Office of the Attorney General
- Women's Legislative Caucus
- Boston Bar Association
- Women's Bar Association
- League of Women Voters
- Mass. Society for the Prevention of Cruelty to Children
- Mass. Legislative Children's Caucus
- Mass. Coalition of Battered Women's Service Groups

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Chapter 179.

THE COMMONWEALTH OF MASSACHUSETTS

In the Year One Thousand Nine Hundred and Ninety-eight

—

AN ACT RELATIVE TO THE CONSIDERATION OF DOMESTIC VIOLENCE IN CUSTODY AND VISITATION PROCEEDINGS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 31 of chapter 208 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in lines 38 and 39, the words "has been the perpetrator of domestic violence,".

SECTION 2. Said section 31 of said chapter 208, as so appearing, is hereby further amended by inserting after the word "merits", in line 48, the following words:- , except as provided for in section 31A.

SECTION 3. Said chapter 208 is hereby further amended by inserting after section 31 the following section:-

Section 31A. In issuing any temporary or permanent custody order, the probate and family court shall consider evidence of past or present abuse toward a parent or child as a factor contrary to the best interest of the child. For the purposes of this section, "abuse" shall mean the occurrence of one or more of the following acts between a parent and the other parent or between a parent and child: (a) attempting to cause or causing bodily injury; or (b) placing another in reasonable fear of imminent bodily injury. "Serious incident of abuse" shall mean the occurrence of one or more of the following acts between a parent and the other parent or between a parent and child: (a) attempting to cause or causing serious bodily injury; (b) placing another in reasonable fear of imminent serious bodily injury; or (c) causing another to engage involuntarily in sexual relations by force, threat or duress. For purposes of this section, "bodily injury" and "serious bodily injury" shall have the same meanings as provided in section 13K of chapter 265.

A probate and family court's finding, by a preponderance of the evidence, that a pattern or serious incident of abuse has occurred shall create a rebuttable presumption that it is not in the best interests of the child to be placed in sole custody, shared legal custody or shared physical custody with

the abusive parent. Such presumption may be rebutted by a preponderance of the evidence that such custody award is in the best interests of the child. For the purposes of this section, "an abusive parent" shall mean a parent who has committed a pattern of abuse or a serious incident of abuse.

For the purposes of this section, the issuance of an order or orders under chapter 209A shall not in and of itself constitute a pattern or serious incident of abuse; nor shall an order or orders entered ex parte under said chapter 209A be admissible to show whether a pattern or serious incident of abuse has in fact occurred; provided, however, that an order or orders entered ex parte under said chapter 209A may be admissible for other purposes as the court may determine, other than showing whether a pattern or serious incident of abuse has in fact occurred; provided further, that the underlying facts upon which an order or orders under said chapter 209A was based may also form the basis for a finding by the probate and family court that a pattern or serious incident of abuse has occurred.

If the court finds that a pattern or serious incident of abuse has occurred and issues a temporary or permanent custody order, the court shall within 90 days enter written findings of fact as to the effects of the abuse on the child, which findings demonstrate that such order is in the furtherance of the child's best interests and provides for the safety and well-being of the child.

If ordering visitation to the abusive parent, the court shall provide for the safety and well-being of the child and the safety of the abused parent. The court may consider:

(a) ordering an exchange of the child to occur in a protected setting or in the presence of an appropriate third party;

(b) ordering visitation supervised by an appropriate third party, visitation center or agency;

(c) ordering the abusive parent to attend and complete, to the satisfaction of the court, a certified batterer's treatment program as a condition of visitation;

(d) ordering the abusive parent to abstain from possession or consumption of alcohol or controlled substances during the visitation and for 24 hours preceding visitation;

(e) ordering the abusive parent to pay the costs of supervised visitation;

(f) prohibiting overnight visitation;

(g) requiring a bond from the abusive parent for the return and safety of the child;

(h) ordering an investigation or appointment of a guardian ad litem or attorney for the child; and

(i) imposing any other condition that is deemed necessary to provide for the safety and well-being of the child and the safety of the abused parent.

Nothing in this section shall be construed to affect the right of the parties to a hearing under the rules of domestic relations procedure or to affect the discretion of the probate and family court in the conduct of such hearings.

SECTION 4. Chapter 209 of the General Laws is hereby amended by adding the following section:-

Section 38. In issuing any temporary or permanent custody order, the probate and family court shall consider evidence of past or present abuse toward a parent or child as a factor contrary to the best interest of the child. For the purposes of this section, "abuse" shall mean the occurrence of one or more of the following acts between a parent and the other parent or between a parent and child: (a) attempting to cause or causing bodily injury; or (b) placing another in reasonable fear of imminent bodily injury. "Serious incident of abuse" shall mean the occurrence of one or more of the following acts between a parent and the other parent or between a parent and child: (a) attempting to cause or causing serious bodily injury; (b) placing another in reasonable fear of imminent serious bodily injury; or (c) causing another to engage involuntarily in sexual relations by force, threat or duress. For purposes of this section, "bodily injury" and "serious bodily injury" shall have the same meanings as provided in section 13K of chapter 265.

A probate and family court's finding, by a preponderance of the evidence, that a pattern or serious incident of abuse has occurred shall create a rebuttable presumption that it is not in the best interests of the child to be placed in sole custody, shared legal custody, or shared physical custody with the abusive parent. Such presumption may be rebutted by a preponderance of the evidence that such custody award is in the best interests of the child. For the purposes of this section, an "abusive parent" shall mean a parent who has committed a pattern of abuse or a serious incident of abuse.

For the purposes of this section, the issuance of an order or orders under chapter 209A shall not in and of itself constitute a pattern or serious incident of abuse; nor shall an order or orders entered ex parte under said chapter 209A be admissible to show whether a pattern or serious incident of abuse has in fact occurred; provided, however, that an order or orders entered ex parte under said chapter 209A may be admissible for other purposes as the court may determine, other than showing whether a pattern or serious incident of abuse has in fact occurred; provided further, that the underlying facts upon which an order or orders under said chapter 209A was based may also form the basis for a finding by the probate and family court that a pattern or serious incident of abuse has occurred.

If the court finds that a pattern or serious incident of abuse has occurred and issues a temporary or permanent custody order, the court shall within 90 days enter written findings of fact as to the effects of the abuse on the child, which findings demonstrate that such order is in the furtherance of the child's best interests and provides for the safety and well-being of the child.

If ordering visitation to the abusive parent, the court shall provide for the safety and well-being of the child and the safety of the abused parent. The court may consider:

(a) ordering an exchange of the child to occur in a protected setting or in the presence of an appropriate third party;

(b) ordering visitation supervised by an appropriate third party, visitation center or agency;

(c) ordering the abusive parent to attend and complete, to the satisfaction of the court, a certified batterer's treatment program as a condition of visitation;

(d) ordering the abusive parent to abstain from possession or consumption of alcohol or controlled substances during the visitation and for 24 hours preceding visitation;

(e) ordering the abusive parent to pay the costs of supervised visitation;

(f) prohibiting overnight visitation;

(g) requiring a bond from the abusive parent for the return and safety of the child;

(h) ordering an investigation or appointment of a guardian ad litem or attorney for the child; and

(i) imposing any other condition that is deemed necessary to provide for the safety and well-being of the child and the safety of the abused parent.

Nothing in this section shall be construed to affect the right of the parties to a hearing under the rules of domestic relations procedure or to affect the discretion of the probate and family court in the conduct of such hearing.

SECTION 5. Section 3 of chapter 209A of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after the word "child", in line 17, the following words:- ; provided, however, that in any case brought in the probate and family court a finding by such court by a preponderance of the evidence that a pattern or serious incident of abuse, as defined in section 31A of chapter 208, toward a parent or child has occurred shall create a rebuttable presumption that it is not in the best interests of the child to be placed in sole custody, shared legal custody or shared physical custody with the abusive parent. Such presumption may be rebutted by a preponderance of the evidence that such custody award is in the best interests of the child. For the purposes of this section, an "abusive parent" shall mean a parent who has committed a pattern of abuse or a serious incident of abuse.

For the purposes of this section, the issuance of an order or orders under chapter 209A shall not in and of itself constitute a pattern or serious incident of abuse; nor shall an order or orders entered ex parte under said chapter 209A be admissible to show whether a pattern or serious incident of abuse has in fact occurred; provided, however, that an order or orders entered ex parte under said chapter 209A may be admissible for other purposes as the court may determine, other than showing whether a pattern or serious incident of abuse has in fact occurred; provided further, that the underlying facts upon which an order or orders under said chapter 209A was based may also form the basis for a finding by the probate and family court that a pattern or serious incident of abuse has occurred.

If the court finds that a pattern or serious incident of abuse has occurred and issues a temporary or permanent custody order, the court shall within 90 days enter written findings of fact as to the effects of the abuse on the child, which findings demonstrate that such order is in the furtherance

of the child's best interests and provides for the safety and well-being of the child.

If ordering visitation to the abusive parent, the court shall provide for the safety and well-being of the child and the safety of the abused parent. The court may consider:

(a) ordering an exchange of the child to occur in a protected setting or in the presence of an appropriate third party;

(b) ordering visitation supervised by an appropriate third party, visitation center or agency;

(c) ordering the abusive parent to attend and complete, to the satisfaction of the court, a certified batterer's treatment program as a condition of visitation;

(d) ordering the abusive parent to abstain from possession or consumption of alcohol or controlled substances during the visitation and for 24 hours preceding visitation;

(e) ordering the abusive parent to pay the costs of supervised visitation;

(f) prohibiting overnight visitation;

(g) requiring a bond from the abusive parent for the return and safety of the child;

(h) ordering an investigation or appointment of a guardian ad litem or attorney for the child; and

(i) imposing any other condition that is deemed necessary to provide for the safety and well-being of the child and the safety of the abused parent.

Nothing in this section shall be construed to affect the right of the parties to a hearing under the rules of domestic relations procedure or to affect the discretion of the probate and family court in the conduct of such hearing.

SECTION 6. Section 10 of chapter 209C of the General Laws is hereby amended by adding the following subsection:-

(e) In issuing any temporary or permanent custody order, the probate and family court shall consider evidence of past or present abuse toward a parent or child as a factor contrary to the best interest of the child. For the purposes of this section, "abuse" shall mean the occurrence of one or more of the following acts between a parent and the other parent or between a parent and child: (a) attempting to cause or causing bodily injury; or (b) placing another in reasonable fear of imminent bodily injury. "Serious incident of

abuse" shall mean the occurrence of one or more of the following acts between a parent and the other parent or between a parent and child: (a) attempting to cause or causing serious bodily injury; (b) placing another in reasonable fear of imminent serious bodily injury; or (c) causing another to engage involuntarily in sexual relations by force, threat or duress. For purposes of this section, "bodily injury" and "serious bodily injury" shall have the same meanings as provided in section 13K of chapter 265.

A probate and family court's finding by a preponderance of the evidence, that a pattern or serious incident of abuse has occurred shall create a rebuttable presumption that it is not in the best interests of the child to be placed in sole custody, shared legal custody, or shared physical custody with the abusive parent. Such presumption may be rebutted by a preponderance of the evidence that such custody award is in the best interests of the child. For the purposes of this section, an "abusive parent" shall mean a parent who has committed a pattern of abuse or a serious incident of abuse.

For the purposes of this section, the issuance of an order or orders under chapter 209A shall not in and of itself constitute a pattern or serious incident of abuse; nor shall an order or orders entered ex parte under said chapter 209A be admissible to show whether a pattern or serious incident of abuse has in fact occurred; provided, however, that an order or orders entered ex parte under said chapter 209A may be admissible for other purposes as the court may determine, other than showing whether a pattern or serious incident of abuse has in fact occurred; provided further, that the underlying facts upon which an order or orders under said chapter 209A was based may also form the basis for a finding by the probate and family court that a pattern or serious incident of abuse has occurred.

If the court finds that a pattern or serious incident of abuse has occurred and issues a temporary or permanent custody order, the court shall within 90 days enter written findings of fact as to the effects of the abuse on the child, which findings demonstrate that such order is in the furtherance of the child's best interests and provides for the safety and well-being of the child.

If ordering visitation to the abusive parent the court shall provide for the safety and well-being of the child, and the safety of the abused parent. The court may consider:

(a) ordering an exchange of the child to occur in a protected setting or in the presence of an appropriate third party;

(b) ordering visitation supervised by an appropriate third party, visitation center or agency;

(c) ordering the abusive parent to attend and complete, to the satisfaction of the court, a certified batterer's treatment program as a condition of visitation;

(d) ordering the abusive parent to abstain from possession or consumption of alcohol or controlled substances during the visitation and for 24 hours preceding visitation;

(e) ordering the abusive parent to pay the costs of supervised visitation;

(f) prohibiting overnight visitation;

(g) requiring a bond from the abusive parent for the return and safety of the child;

(h) ordering an investigation or appointment of a guardian ad litem or attorney for the child; and

(i) imposing any other condition that is deemed necessary to provide for the safety and well-being of the child and the safety of the abused parent.

Nothing in this section shall be construed to affect the right of the parties to a hearing under the rules of domestic relations procedure or to affect the discretion of the probate and family court in the conduct of such hearing.

House of Representatives, June 29, 1998.

Passed to be enacted, Acting Speaker.

In Senate, July 16, 1998.

Passed to be enacted, President.

July 22, 1998.

Approved, at 1:10 PM

Acting Governor.

Rule 1:07 Fee Generating Appointments and
the Maintenance of Appointment Dockets in
All Courts

Preamble

The Justices understand the importance of allowing judges the flexibility of selecting appointees based on the particular expertise needed in a given case. In recognition of the necessity to safeguard judicial discretion, a waiver from the requirement of successive appointments has been included in Rule 1:07. In making an appointment, a judge may select a qualified person who is not on the list or who is not next in order on the list by making a brief notation of the reasons for the selection.

The goal of this rule is to assure that all fee-generating appointments made by the courts of the Commonwealth are made on a fair and impartial basis with equal opportunity and access for all qualified candidates for appointments. The Justices have concluded that the fairest way to accomplish this goal, and at the same time avoid favoritism or the appearance of favoritism, is by requiring each court to create lists of qualified candidates and then generally make appointments from those lists in rotation or sequential order.

(1) Annual Publication. At the beginning of each fiscal year, the chief justice of each Trial Court department and the chief justices of the appellate courts shall submit to the Chief Justice for Administration and Management (CJAM) a listing of the types of fee-generating appointments made in their department or court and the qualifications for those appointments. The CJAM shall compile the listings into a unified report which shall be published annually by the CJAM. The report shall include a description of the educational, professional, and other qualifications required for each type of appointment. The report shall state the method by which a person may apply to be considered for each particular type of appointment. It shall also include a statement that appointments of counsel for indigent defendants in criminal matters and for

parties in certain non-criminal matters are governed by the Committee for Public Counsel Services (CPCS). An address and telephone number for interested persons to receive information on CPCS appointments shall be included in the report. This annual publication shall be accompanied by a statement from the Supreme Judicial Court that the appointments in the report are open to all qualified persons without regard to race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status.

(2) Court Lists. Every individual court making fee-generating appointments shall maintain a list of persons eligible for each type of appointment made by the court. The list shall be generated by the court or, where applicable, by CPCS. All court-generated lists shall be open to all qualified candidates and shall not be restricted to a fixed number of candidates. The method for removing individuals from a list shall be the responsibility of CPCS, in the case of CPCS-generated lists, and of the CJAM, in the case of court-generated lists. The lists shall be public.

(3) Successive Appointments. Each court appointment shall be made from the list maintained pursuant to section (2) of this rule, except as otherwise provided in section (4). Appointments from the list shall be made successively, except that, if an appointment is not made in successive order, the judge (or other person) making the appointment shall provide a brief written statement of reasons for not following the order of the list. For appointees compensated by CPCS, such written statement shall be kept by the Clerk, Register or Recorder in a separate file marked "CPCS appointments." A judge may direct that an appointment made successively from the list be entered administratively by the clerk, register, or recorder.

(4) Persons Not On List. If a judge appoints a person not on the list maintained pursuant to section (2), the judge (or other person) making the appointment shall provide a brief written statement of reasons for not appointing from the list.

(5) Appointment Docket. All clerks, registers, and recorders, for trial and appellate courts, shall establish and maintain, currently indexed, as part of the public records of the court open during regular business hours to public inspection, an appointment docket with respect to the appointment by the court of each fee-generating appointment, excluding appointees compensated by CPCS. The appointment dockets shall include the following:

(a) guardian ad litem,

(b) investigator appointed pursuant to G. L. c. 208, § 16,

(c) appraiser in any estate estimated to have gross assets in excess of $100,000,

(d) commissioner to sell real estate,

(e) mediator or conciliator,

(f) master or special master,

(g) counsel in any civil matter,

(h) monitor for the administration of antipsychotic medications,

(i) investigator in care and protection proceedings,

(j) title examiner,

(k) administrator, trustee, guardian, conservator, or receiver, whose appointment was not prayed for by name in a petition, pleading, or written motion, and any guardian or conservator who is an attorney, social worker or other social service professional unrelated to the ward by blood or marriage,

(l) any other fee-generating appointment not compensated by CPCS and not otherwise excluded by this section. The appointment of a guardian ad litem to serve process under G. L. c. 215, § 56B, shall not be entered on the appointment docket. The appointment of an executor, administrator, trustee, guardian, conservator or receiver shall not be entered on the appointment docket except as required by section (5)(k). Appointments shall be entered on the appointment docket regardless of the anticipated source, if any, of payment to the appointee.

(6) Data Collection. Such docket shall contain at a minimum the following:

(a) the docket number and, if the case file is available for public inspection or if access to the information is not otherwise prohibited, the name of the case,

(b) the date of the appointment,

(c) the name of the appointee,

(d) the position to which appointed,

(e) by whom the appointment was made,

(f) a notation if the appointment was not made successively from the court's list or

if the appointee was a person not on the list, and

(g) the amount of any payment received and the source thereof (party, estate, or Commonwealth) or whether payment was waived or declined.

(7) Payments. No payment shall be made or received on account of any appointment required to be recorded in the appointment docket until a statement under the penalties of perjury, certifying the services provided, amount of payment, and itemization of expenses, is filed with the clerk, register, or recorder, to be placed with the papers in the case. No person holding an appointment required to be recorded in the appointment docket under section (5) of this rule shall make any payment to himself or herself until such payment is approved by the court.

(8) Compliance. Each appointment made under this rule shall include language on the document of appointment itself that section (7) of this rule must be complied with. After July 1 , 2000, no person whose appointment is subject to this rule shall accept reappointment unless he or she has filed a certification that all fee reports for payments received in the previous fiscal year have been filed.

(9) Implementation. The CJAM shall promulgate, subject to the approval of the Supreme Judicial Court, such uniform practices as are necessary to implement this rule.

WHAT IS CASLS?

Cambridge and Somerville Legal Services (CASLS) is a private, non-profit agency which provides free legal assistance to low-income and elderly people who have certain types of legal problems.

Low income people are often denied equal protection of the law because they cannot afford an attorney. Our staff is experienced with the laws which most often affect low income and elderly people, and we are ready to assist you.

HAVE YOU BEEN ABUSED?

CASLS can assist you if you have been physically abused. We can also help if you have been threatened with abuse and you are afraid for your safety or the safety of your children.

We recognize that abuse happens in families of all types, races and nationalities. We seek to be especially sensitive to the concerns of women of color and those whose primary language is not English. CASLS has staff and access to translators who speak Spanish, Portuguese, French and Creole.

YOU CAN PUT A STOP TO THE ABUSE

No one deserves to be beaten or threatened with abuse. If you have been abused or threatened, you have a legal right to have the abuse stopped and to be protected from further violence.

The Massachusetts Abuse Prevention law can provide protection on an emergency basis. Under this law, you can get a Restraining Order. As part of your Restraining Order you can ask that the court:

1) ***ORDER THE ABUSER TO STOP HURTING YOU AND TO STAY AWAY FROM YOU, and***

2) ***ORDER THE ABUSER TO LEAVE YOUR HOME IMMEDIATELY, and***

3) ***GRANT YOU LEGAL CUSTODY OF YOUR CHILDREN, and***

4) ***ORDER THE ABUSER TO PAY SUPPORT FOR YOUR CHILDREN, and***

5) ***ORDER THE ABUSER TO COMPENSATE YOU FOR ANY FINANCIAL LOSSES RESULTING FROM THE ABUSE.***

HOW CASLS CAN HELP

CASLS offers legal advice and counseling on how to get court orders to put a stop to the abuse. If a legal advocate is needed to accompany you to court, we can provide this service.

In addition, CASLS can provide you with legal assistance if you are 1) being evicted from your home, 2) denied any government benefit such as AFDC, Medicaid, or Emergency Assistance or 3) seeking a divorce or are involved in a custody or other family law matter.

HOW TO GET OUR SERVICES

Our services are offered FREE OF CHARGE. We are able to do this because we receive funding from government and private sources specifically to provide free legal services to those who cannot afford an attorney.

CASLS sees people by appointment only. If you are in need of legal assistance or want information on how to put a stop to physical abuse, please call and ask to speak to our Intake Worker. You will be asked to answer a few questions about where you live, your income and your legal problem. If we are able to help, we will give you an appointment with an attorney or paralegal.

HOUSE . . . . . No. 1016

By Mr. DeLeo of Winthrop, petition of Robert A. DeLeo relative to the appointment of guardians ad litem by the Probate Court in contempt proceedings involving children. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Nine.

AN ACT RELATIVE TO THE APPOINTMENT OF A GUARDIAN AD LITEM TO INSTITUTE CONTEMPT PROCEEDINGS INVOLVING THE CARE, CUSTODY OR MAINTENANCE OF MINOR CHILDREN.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Chapter 215 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking section 56B and inserting in place thereof the following section:—

Section 56B. Any judge of a probate and family court may appoint a guardian ad litem to institute contempt proceedings under the provisions of section thirty-four A against any party for failure to obey judgments of the probate and family court involving care, custody or maintenance of minor children, and said guardian ad litem may personally serve throughout the commonwealth any summons or capias incidental to the enforcement of this section. The compensation, together with any expense, shall be fixed by the court and shall be paid by the commonwealth, upon certificate by the judge to the state treasurer or by the defendant, as the court may order. The state police, local police and probation officers shall assist the guardian ad litem so appointed, upon his request.

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HOUSE . . . . . No. 1017

By Mr. DeLeo of Winthrop, petition of Robert A.DeLeo relative to the appointment of guardians ad litem by the Probate Court to investigate custody proceedings involving children and domestic relations matters. The Judiciary

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Nine.

AN ACT RELATIVE TO THE APPOINTMENT O A GUARDIAN AD LITEM TO INVESTIGATE THE FACTS OF ANY PROCEEDING INVOLVING THE CARE, CUSTODY OR MAINTENANCE OF MINOR CHILDREN AND DOMESTIC RELATIONS MATTERS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Chapter 215 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking section 56A and inserting in place thereof the following section:—

Section 56A. Any judge of a probate and family court may appoint a guardian ad litem to investigate the facts of any proceeding pending in said court relating to or involving questions as to the care, custody or maintenance of minor children and as to any matter involving domestic relations except those for the investigation of which provision is made by section sixteen of chapter two hundred and eight. Said guardian ad litem shall, before final judgment or decree in such proceeding, report in writing to the court the results of the investigation, and such report shall be open to inspection to all the parties in such proceeding or their attorneys. The compensation, together with any expense, shall be fixed by the court and shall be paid by the commonwealth, upon certificate by the judge to the state treasurer or by one or both of the parties, as the court may order. The state police, local police and probation officers shall assist the guardian ad litem so appointed, upon his request.

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Workshop Six
Substance Abuse Among Victims: Before and After the Crime

Substance Abuse Among Victims: Before and After the Crime

Moderator: Beth Merachnik, Chief
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Panelists: Diane St. George, State Victim Services Coordinator
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Elizabeth Stone House
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Coordinator: Deborah Fogarty, MOVA

Victimization, Posttraumatic Stress Disorder, and Substance Use and Abuse Among Women

Dean G. Kilpatrick, Ph.D.; Heidi S. Resnick, Ph.D.; Benjamin E. Saunders, Ph.D.; and Connie L. Best, Ph.D.

INTRODUCTION

Data from the Epidemiologic Catchment Area (ECA) Survey (Helzer et al. 1987) indicate a lifetime prevalence rate of 13.8 percent for alcohol abuse or dependence. Rates for women are substantially lower than those observed for men. 4.57 percent v. 23.83 percent lifetime and 2.16 percent v. 11.90 percent past year. Large differences in rates for men and women are likely to reflect both biological and social factors (Helzer et al. 1987). These data indicate the importance of examining the relative roles of biological and environmental factors in the etiology of alcohol abuse or dependence among women.

As reviewed by Rose (1995), data from population-based twin studies indicate large effects for genetic factors in women in the development of alcohol dependence. Percentages of variance accounted for by genetic factors ranged from approximately 0.50 to 0.67. Other findings indicated that smaller heritability quotients for women than for men may have been related to alcohol use among nonrepresentative clinical samples (Rose 1995). These data suggest the possibility of a substantial role for genetic factors in women's alcohol dependence and emphasize the importance of using epidemiological samples in the study of etiological factors.

In terms of environmental factors associated with alcohol dependence among women, researchers have begun to study associations between severe traumatic events and alcohol and other substance use or abuse. Several studies indicate that substance use disorders are more prevalent in individuals with a history of criminal victimization (Burnam et al. 1988; Cottler et al. 1992; Elliot et al. 1989; George and Winfield-Laird 1986; Helzer et al. 1987; Kilpatrick 1990; Kulka et al. 1990). For example, in a study of 3,125 Los Angeles residents that was part of the National Institute of Mental Health ECA project (Burnam et al. 1988), lifetime rates of alcohol abuse or dependence were significantly higher among sexual assault victims than among nonvictims (18.38 percent v. 13.80 percent), as were rates of drug abuse or dependence (20.41 percent v. 5.49 percent).

Other studies of women seeking treatment for substance use disorders report high rates of violent assault among women with substance abuse problems (Bradv et al. 1994; Cohen and Densen-Gerber 1982; Ladwig and Andersen 1989; Miller et al. 1987).

An important issue that has not been adequately addressed in such studies is the temporal sequence of substance abuse and violent assault. Because substantial evidence exists that violent assault can produce posttraumatic stress disorder (PTSD) (Breslau et al. 1991; Kessler et al. 1995; Kilpatrick et al. 1989; Resnick et al. 1993), another important issue in understanding the relationship between violence and substance abuse is whether PTSD and substance use and abuse are related. Kessler and coworkers (1995) reported that women with PTSD were 2.48 times as likely as women without PTSD to have alcohol abuse and/or dependence (27.9 percent v. 13.5 percent) and were 4.46 times as likely to have drug abuse and dependence (26.9 percent v. 7.6 percent). Thus, it is important to determine whether PTSD may mediate development of substance abuse after the crime and whether PTSD and substance abuse are independently associated with crime and to identify issues of chronology.

Extant findings of studies examining relationships among these variables have been contradictory. Burnam and associates (1988) observed a pattern representing a vicious cycle in which sexual abuse victimization was a significant risk factor for initial development of alcohol or other drug abuse or dependence. Substance abuse or dependence also significantly increased risk of subsequent sexual victimization. A measure of PTSD was not included in the study. In contrast to these findings, Cottler and colleagues (1992) reported that within a St. Louis sample of the ECA survey, substance use onset preceded and significantly predicted initial development of PTSD. Thus, they suggested that substance use probably increases risk of exposure to traumatic events that could lead to PTSD. They also found that cocaine or opiate abuse was particularly likely to be related to a history of traumatic events (Cottler et al. 1992).

An important factor that may relate to these contradictory findings is substantial differences in the methods used to assess history of sexual assault incidents. Burnam and colleagues (1988) included a screening question presented to all respondents that behaviorally defined the experience of forced sexual contact, ranging from molestation incidents to completed rape incidents. Their procedure did not use culturally loaded terms such as "rape" but instead specifically asked about touching of sexual parts of the body and sexual intercourse. In contrast, Cottler and coworkers' (1992) procedure used solely the word "rape" in a more general assessment of any traumatic incidents a respondent may have experienced. This approach has been criticized as leading to great underestimates of true rates of sexual assault and rape because many women do not classify their actual experiences by using legal terms that are often associated with cultural stereotypes about these crimes (Resnick et al. 1993).

Resnick and associates (1993) suggested that studies using such terminology may lead to misinterpretations about chronology of traumatic events and the development of mental health disorders. Thus, one possible reason for the contradictory findings regarding the relationships among substance use or abuse, traumatic event history, and PTSD is the lack of sensitive assessment of sexual assault events, which often occur early in an individual's life (Kilpatrick et al. 1992). Kilpatrick and coworkers (1992) found that of all rapes reported among a national sample of women, 29 percent occurred earlier than age 11. An additional 32 percent of all cases occurred when the women were 11 to 17 years of age. If such early events are missed, the absence of important historical information may in some cases mistakenly lead to the assumption that substance use or abuse precedes victimization by sexual assault or other trauma. Differing interpretations of findings could have important implications for understanding the etiology or maintenance of each type of problem. Similarly, such interpretations of relationships influence the development of intervention approaches and populations targeted for treatment.

In addition to discrepancies in approaches to assessment of traumatic event histories, extant studies of the relationship among substance abuse, trauma exposure, and PTSD in women have been retrospective, which limits interpretations about the chronology of critical variables. Finally, no studies that adequately address these issues have included a measure to estimate the role of such stressors in conjunction with family history variables that may affect genetic and/or environmental factors.

An evaluation of family history, along with information about exposure to intrafamilial and/or extrafamilial crime at various ages, might yield important information about the chronology of critical variables and relative contributions of environmental and biological factors.

Addressing the temporal sequence of substance abuse, PTSD, and crime victimization in women requires a research design that includes the following elements: (1) use of a probability sample, not a treatment-seeking sample, (2) careful assessment of baseline history of violent assault and onset of substance use, (3) longitudinal followup assessment of study participants to detect new cases of violent assault and substance use or abuse, and (4) inclusion of an estimate of potential biological contributing factors to attempt to separate biological from environmental influences.

NATIONAL WOMEN'S STUDY METHODOLOGY

This chapter, which is based on the authors' National Women's Study, a longitudinal study of a nationally representative sample of women that was designed to address many of the aforementioned problems, includes the following.

- Presentation of descriptive information about the prevalence of violent assault, substance use or abuse, and PTSD among this nationally representative sample of adult women.
- Examination of data on age of onset of critical variables to evaluate chronology factors.
- Description of the violent assault and PTSD history of women from this sample who have received substance abuse treatment.
- Discussion of these hypotheses about the vicious cycle theory:
  - A history of violent assault increases the risk of alcohol dependence.
  - A history of substance use or abuse increases the risk of violent assault.
  - Risk of alcohol dependence at followup is predicted by a history of violent assault, substance abuse, past-year violent assault, and PTSD.

The random-digit-dialing telephone survey method was used to locate and interview a national probability sample of adult women. 2,008 of whom were age 18 and older (n=4,008) and 2,000 of whom were an oversample of younger women between the ages of 18 to 34. To correct for the effects of oversampling, the data were weighted by age and race to 1989 estimates of the distribution of these characteristics in the U.S. population of adult women. The mean age for the entire sample was 44.9 years (standard deviation=18.4). Most of the women were high school graduates (63.4 percent) and were married or cohabiting (63.7 percent). More than half the sample reported household income between $15,001 and $50,000, with a substantial minority (27.3 percent) reporting incomes at or less than $15,000. For more detail on descriptive data from wave 1 of the study, see Resnick and colleagues (1993).

Of the designated respondents, 4,008 (85 percent) completed wave 1 interviews, 3,359 (83.8 percent) completed at least one of two followup interviews, and 2,892 (72.2 percent) completed both followup interviews. Sample selection and interviewing were done by female interviewers from a New York City-based survey research firm. Lifetime prevalences of rape, aggravated assault, and PTSD were assessed at wave 1. Descriptive information about lifetime rape and aggravated assault cases was collected at wave 1 and information about new victimization cases at waves 2 and 3. The 3,359 women with at least 1 year's followup data were separated into two groups, those victimized in the followup period and those not subsequently victimized. Current PTSD status was assessed at both followup interviews.

The following are operational definitions of key variables.

- Demographic variables assessed at wave 1
  - Current age. Measured in years at wave 1
  - Race. African-American, Asian, Hispanic, Native American, white; simplified to white v. nonwhite for multivariate analyses based on population distribution and ease of interpretation of results
  - Education. Non-high school graduate, high school graduate, college graduate, measured at wave 1
  - Household income. Subdivided for conceptual reasons into poverty level (less than $10,000 in 1988) or above poverty level (more than $10,000 in 1988)
  - Marital status. Single, cohabiting, married, separated, divorced, widowed; simplified to married v. nonmarried for multivariate analyses
- Family history of substance abuse problems measured at wave 1 assessed based on the report that at least one of the respondent's biological parents had one or more of the following substance abuse-related problems when the respondent was growing up
  - Problems with family or friends
  - Problems with work
  - Problems with health
  - Problems with the law
  - Injuries or accidents
- Assault incidents
  - Rape. Defined as nonconsensual assault using force or threat of force involving some type of sexual penetration of victim's vagina, rectum, or mouth. Up to three incidents were assessed during wave 1 (first, most recent, and worst, if distinct from first or most recent). Only one incident was assessed at each followup interview. The specific questions to assess rape used sensitive, behaviorally specific phrasing following the orienting preface below

> Another type of stressful event that many women have experienced is unwanted sexual advances. Women do not always report such experiences to the police or discuss them with family or friends. The person making the advances isn't always a stranger, but can be a friend, boyfriend, or even a family member. Such experiences can occur anytime in a woman's life—even as a child. Regardless of how long ago it happened or who made the advances . .
>
> Has a man or boy ever made you have sex by *using force* or threatening to harm you or someone close to you? Just so there is no mistake, by sex we mean putting a penis in your vagina.
>
> Has anyone ever made you have oral sex by force or threat of harm? Just so there is no mistake, by oral sex we mean that a man or boy put his penis in your mouth or someone penetrated your vagina or anus with their mouth or tongue.
>
> Has anyone ever made you have anal sex by force or threat of harm?
>
> Has anyone ever put fingers or objects in your vagina or anus against your will by using force or threats?

An affirmative response to any of these questions indicated that a woman had been a victim of rape, defined as vaginal, anal, or oral penetration that occurred through the use of force or threat of force, whether or not the woman subjectively defined the incident as rape or reported it to police or other authorities.

  - Aggravated assault: Defined as an attack with a weapon or without a weapon with intent to kill or seriously injure the victim. Descriptive data were gathered about a respondent's only or worst incident during wave 1. Data were gathered on only one incident per followup assessment. A positive history of aggravated assault was defined as a positive response to either of the following questions.

> Another type of stressful event women sometimes experience is being *physically* attacked by another person. Not counting any incidents already described to me, has anyone, including family members or friends, ever attacked you with a gun, knife, or some other weapon, regardless of when it happened or whether you ever reported it or not?
>
> Has anyone, including family members and friends, ever attacked you without a weapon, but with the intent to kill or seriously injure you?

  - History of prior victimization: The number of rapes or aggravated assaults occurring prior to wave 1 interview was determined. The range of this variable was zero to 4.
  - New victimization: The question of whether a rape or aggravated assault occurred in the interval between wave 1 and waves 2 and 3 was assessed. This variable was scored dichotomously as negative (zero) if no incidents had occurred or positive (1) if any incident was reported. In a small subset of cases in which a victimization occurred during both waves, analyses were based on data from the earliest followup assessment, wave 2, for purposes of defining assault status and current PTSD status
- Current PTSD. Measured by the National Women's Study PTSD Module (Resnick et al. 1993) at wave 2 and wave 3 interviews. PTSD status was scored dichotomously on the basis of absence (zero) or presence (1) of sufficient symptoms to meet *Diagnostic and Statistical Manual of Mental Disorders (Third Edition-Revised) (DSM-III-R)* (American Psychiatric Association 1987) criteria within the past 6 months. This measurement instrument has high sensitivity compared with the Structured Clinical Interview for *DSM-III-R* (Spitzer et al. 1987) with an overall kappa of 0.77 for lifetime PTSD and 0.71 for current PTSD based on the *Diagnostic and Statistical Manual of Mental Disorders (Fourth Edition)* (American Psychiatric Association 1994) PTSD Field Trial data (Kilpatrick et al., in press). Further validity data relate to the consistent population- and event-specific rates of PTSD obtained with this instrument using the telephone assessment method employed in this study and those obtained using in-person structured clinical interviews (Resnick et al. 1993).
- Sensation-seeking. A six-item short form of the Disinhibition-Intentions for the Future Subscale of Zuckerman's Sensation Seeking Scale Form VI was used to measure this variable (Zuckerman 1984). Scores range from 6 to 18. The scale asks respondents:

> Regardless of whether you have actually done any of the following things in the past, for each, I'd like to know whether you probably would do it if the opportunity arose, have thought about it but probably won't do it, or have no desire to do it

Doing something illegal but enjoyable . . .

Doing what feels good regardless of the consequences . . .

Going out with someone just because they are physically exciting . . .

Doing unconventional things, even if they are a little frightening . . .

Refusing to follow orders from someone in authority . . .

- Alcohol dependence
  - Lifetime: Respondent met *DSM-III-R* criteria for alcohol dependence sometime during her lifetime; assessed at wave 1. Scored dichotomously according to the presence or absence of a history of alcohol dependence.
  - Past year at wave 1: Respondent met *DSM-III-R* criteria for alcohol dependence within 1 year prior to wave 1 or had consumed two or more alcoholic drinks per day each day of that period. Scored dichotomously according to the presence or absence of criteria.
  - Current: Respondent was measured at waves 2 and 3 followup interviews. Scored dichotomously according to presence or absence of meeting criteria for alcohol dependence within the most recent followup period, or consumption of two or more alcoholic drinks per day during the most recent followup period.
- Substance use categories: A slight modification of a Guttman scale of increasing drug use categories developed by Elliott and colleagues (1989) was used. Numerical scores were based on the following categories for use reported at wave 1:
  - Category 0 No alcohol dependence, no heavy alcohol use, no other drug use
  - Category 1 Alcohol dependence or heavy alcohol use, without other drug use
  - Category 2 Marijuana use, without amphetamine, barbiturate, cocaine, opiate, or other drug use
  - Category 3 Polydrug use (four or more instances of use of cocaine, heroin, barbiturates, amphetamine, hallucinogens, or inhalants)

Categorization was based on data obtained about lifetime and past-year usage at the wave 1 assessment.

- Substance abuse treatment: Scored dichotomously according to whether or not respondent reported that she had ever received substance abuse treatment at wave 1 assessment.

PROCEDURE

On the basis of wave 1 data, respondents were divided into groups that were positive or negative for lifetime and past-year alcohol dependence. Univariate analyses were conducted to evaluate relationships between these variables and the variables reflecting demographics, family history of substance abuse problems, sensation-seeking scores, violent assault history, and PTSD. Multivariate analyses then were conducted, including significant associated variables to predict lifetime and past-year alcohol dependence or heavy-use groups.

Next, data from waves 2 and 3 were used to classify respondents into groups based on histories of alcohol dependence during the most recent followup assessment period and reports of new assaults during followup assessment periods. Several measures from wave 1 (i.e., family history of substance abuse problems, lifetime and past-year alcohol dependence, substance use category, lifetime PTSD status, and current PTSD status) were used to predict alcohol dependence at waves 2 and 3, as well as having experienced new assaults at waves 2 and 3.

RESULTS

Relationship Between Wave 1 Violent Assault, PTSD, and Lifetime Alcohol Dependence

Descriptive data (wave 1) indicated that 10.3 percent of women had been victims of aggravated assault and 12.7 percent had been victims of rape at some time in their lives. Lifetime prevalence of PTSD was 12.3 percent and past-6-month prevalence of PTSD was 4.6 percent within the entire sample. Lifetime prevalence of alcohol dependence or heavy drinking was 6.4 percent, and past-year prevalence was 3.0 percent.

Univariate Risk Factors for Lifetime Alcohol Dependence

Women with a family history of substance abuse problems, sensation-seeking, and lifetime PTSD were significantly more likely to have lifetime alcohol dependence than their counterparts (figure 1). Risk of lifetime alcohol dependence increased substantially as a function of the number of lifetime assaults a woman had experienced (figure 2).

Multivariate Analysis

Multivariate logistic regression analysis was used to evaluate relationships between variables identified as significant in univariate analyses with the lifetime alcohol dependence/heavy use variable. Variables significant in the final model of this procedure significantly increase the odds of alcohol dependence after controlling for the effects of all other variables in the model. Eight predictor variables were entered simultaneously into the final model: the four variables just described in the univariate analyses and the demographic control variables age, race, income, and education. In the final model, four

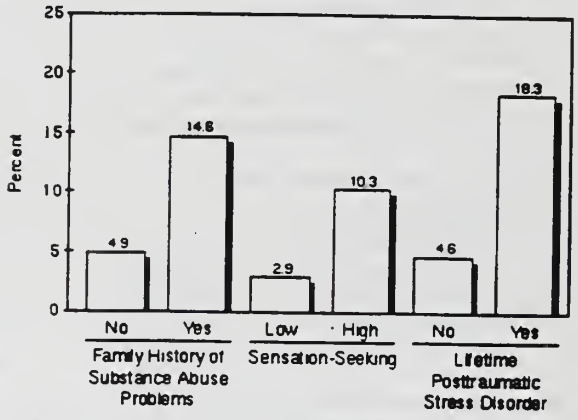

FIGURE 1. *Univariate risk factors for lifetime alcohol dependence at wave 1*

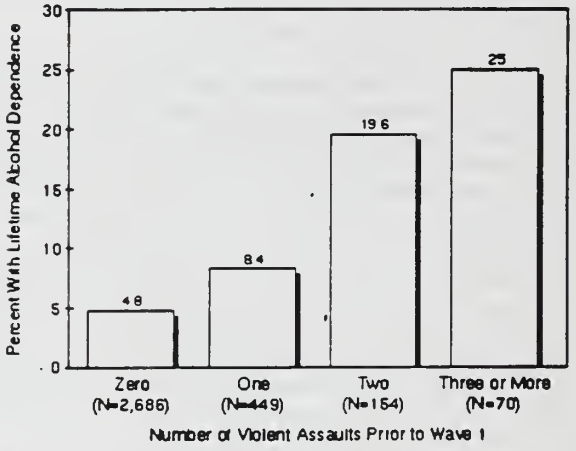

FIGURE 2. *Relationship between number of violent assaults and lifetime alcohol dependence at wave 1*

variables were significant predictors of lifetime alcohol dependence, controlling for each of the other variables within the model (table 1).

Women reporting a family history of alcohol abuse or dependence were 1.99 times more likely to experience lifetime alcohol dependence or heavy use than women without such a history. Higher sensation-seeking scores were also associated with significantly increased odds of

TABLE 1. *Final multivariate logistic regression model predicting lifetime alcohol dependence at wave 1*

Variable	Range	Odds Ratio	Confidence Interval
Family substance abuse problem	0-1	1.99	1.43-2.77
Sensation-seeking	6-18	1.26	1.18-1.34
History of violent assault	0-3	1.43	1.20-1.70
Lifetime posttraumatic stress disorder	0-1	2.39	1.68-3.39

NOTE: Current age, race, household income, and education were not significant factors in the final model.

lifetime alcohol dependence, with an odds ratio of 1.26 for each unit increase in the sensation-seeking scale score. Violent assault history, which ranged from zero to three possible assaults in wave 1, was associated with increased odds of lifetime alcohol dependence of 1.43 with each unit increase in the number of violent assaults. Thus, women with one assault had increased odds of 1.43 over those with no assaults. Women with two assaults had increased odds of 2.05 over those with no assaults. Women with three assaults had increased odds of 2.92 over those with no assaults. Finally, women with lifetime PTSD were 2.39 times more likely to be dependent on alcohol than women without PTSD.

Timing of Violent Assault, First Alcohol Consumption, and Alcohol Intoxication

Of the 638 assault victims from whom data about age of first assault and age of first drink were available, 10.1 percent reported never having consumed alcohol. For 50.1 percent, their first alcohol consumption occurred after the year of their first reported assault. For 5.6 percent, the age of first drink and age of first assault were the same. For 34.2 percent, the first drink occurred before the first assault.

First instance of being drunk was also examined in relation to age of first assault. Of those reporting assault histories, 22.5 percent reported never having been drunk, 44.1 percent had only been drunk after their first assault, 6 percent became drunk and had their first assault the same year, and 27.5 percent became drunk before the year they were first assaulted.

Timing of onset of first drink, first being drunk, and assault onset was examined separately among women who met criteria for alcohol dependence or heavy use. Among women with alcohol dependence or heavy use who also had assault histories, 27 percent reported having their first drink before their first assault, whereas 29.6 percent of assault victims with alcohol dependence reported first being drunk before their first assault.

Relationship Between Lifetime Alcohol Dependence and Past-Year Alcohol Dependence at Wave 1

Of the 101 women who met past-year diagnostic criteria for alcohol dependence or heavy drinking at wave 1, 38 did so on the basis of heavy drinking and 63 on the basis of alcohol dependence.

Multivariate logistic regression analysis was performed using age, household income, family substance abuse problems, sensation-seeking, history of violent assault, lifetime PTSD, and lifetime alcohol dependence (all of which were significantly associated with past-year alcohol dependence or heavy use in univariate analyses) to predict past-year alcohol dependence or heavy drinking (table 2). After controlling for other variables in the model, only lifetime alcohol dependence or heavy use and sensation-seeking scores were significant predictors of past-year alcohol dependence or heavy use. Odds for past-year alcohol dependence or heavy drinking were 25.99 times greater among those with lifetime alcohol dependence than among those without such dependence. Of the lifetime positive group, 63 percent also had met criteria during the past year. Controlling for lifetime alcohol dependence, sensation-seeking was also associated with increased odds of past-year alcohol dependence or heavy drinking. Odds of past-year alcohol dependence or heavy drinking at wave 1 increased as a function of increases in sensation-seeking.

Relationship Between Past-Year Substance Use at Wave 1 and New Assaults During Waves 2 and 3 Followup

Among women completing at least one followup assessment period (n=3,359), 4.3 percent reported experiencing at least one rape or aggravated assault during the followup interval. Substance use during the year prior to followup (assessed at wave 1) was examined in association with risk of new assaults. Among the wave 1 sample respondents who participated in at least one followup assessment, 93.7 percent were classified as non-alcohol dependent and nonusers of other drugs. Alcohol dependence or heavy use with no other drug use was reported by 2.3 percent, marijuana use with no other drug use by 3.2 percent, and polydrug use by 0.7 percent.

A significant relationship existed between past-year substance use and the likelihood of assault during the followup period. Rates of new assault were lowest among women with no heavy alcohol use or drug use and increased among women with alcohol dependence. Women with marijuana use had still higher rates of new assault, and women with hard drug use had the highest rates of new assault (figure 3).

Logistic regression analysis using the four-point past-year substance use score to predict likelihood of new assault was also significant. Odds of new assault were 1.77 times greater for women with alcohol dependence than for nonusers, 3.10 times higher for marijuana users than for nonusers, and 5.45 times higher for polydrug users than for nonusers. The logistic regression model predicting new assault at waves 2 and 3 by past-year substance use category at wave 1 was as follows:

Variable	Range	Odds Ratio	Confidence Interval
Past-year alcohol dependence at wave 1	0-3	1.77	1.49-2.11

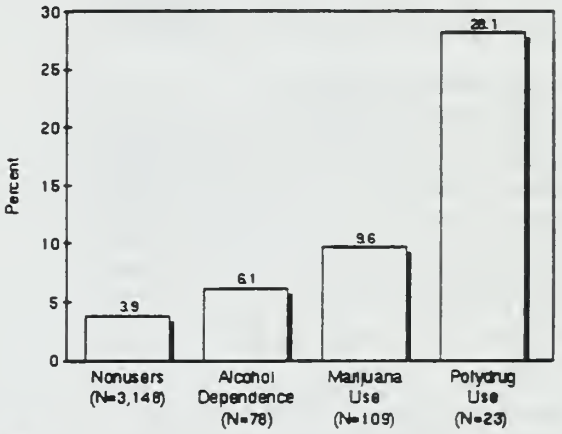

FIGURE 3. *Relationship between past-year substance use at wave 1 and new assault during waves 2 and 3 followup*

Relationship Between Past-Year Alcohol Dependence (Wave 1), Assault and PTSD (Waves 2 and 3), and Alcohol Dependence at Followup

Results of multivariate logistic regression analysis are shown in table 3. Significant predictors of alcohol dependence or heavy use at followup waves included past-year alcohol dependence assessed at wave 1, exposure to new assault at followup waves, and current PTSD at followup. Women with past-year alcohol dependence at wave 1 were 9.33 times more likely to be alcohol dependent at waves 2 and 3 than women without past-year alcohol dependence at wave 1. For women with a new violent assault during the followup period, the odds were 3.25 times greater than for women without such assaults of alcohol dependence at waves 2 and 3. Finally, women with PTSD were 5.52 times more likely to be alcohol dependent than women without PTSD. All three variables were significantly related to the chances of alcohol dependence in the followup period, accounting for the effects of the other two variables and indicating that new assault and PTSD were important predictors even when controlling for past-year alcohol dependence at wave 1.

Relationships between past-year alcohol dependence at wave 1, new assault, PTSD, and alcohol dependence at followup are shown in figure 4. Women with alcohol dependence immediately prior to the followup period were substantially more likely to have alcohol dependence at followup across all conditions than women without alcohol dependence at followup. Among women without past-year alcohol dependence, the impact of new assaults and PTSD on alcohol dependence at followup was clear: Rates of alcohol dependence increased substantially after assault and after PTSD, particularly among assault victims with PTSD.

TABLE 2. *Final multivariate logistic regression model predicting past-year alcohol dependence or heavy drinking at wave 1*

Variable	Range	Odds Ratio	Confidence Interval
Sensation-seeking	6-18	1.12	1.03-1.21
Lifetime alcohol dependence	0-1	25.99	15.64-43.38

NOTE: Current age, race, household income, and education were not significant factors in the final model.

TABLE 3. *Final multivariate logistic regression model predicting alcohol dependence at waves 2 and 3*

Variable	Range	Odds Ratio	Confidence Interval
Past-year alcohol dependence at wave 1	0-1	9.33	4.57-18.92
New assault at waves 2 and 3	0-1	3.25	1.52-6.96
Current posttraumatic stress disorder at waves 2 and 3	0-1	5.52	2.89-10.59

NOTE: Current age, household income, family history of substance abuse problems, sensation-seeking, and history of violent assaults at wave 1 were not significant in the final model.

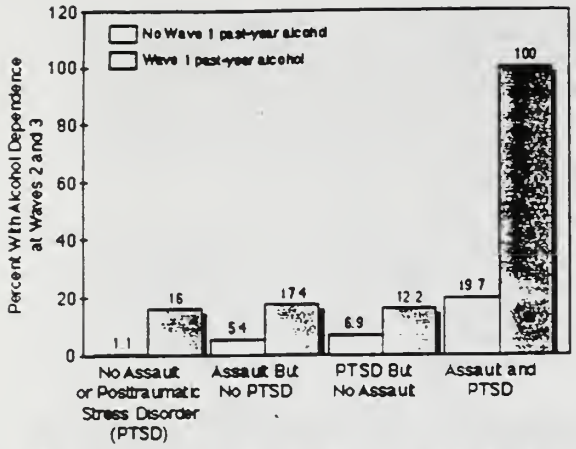

FIGURE 4. *Relationship between past-year alcohol dependence at wave 1, assault and posttraumatic stress disorder at waves 2 and 3, and alcohol dependence at waves 2 and 3*

Women Receiving Substance Abuse Treatment

Patterns of drug and alcohol use and patterns of violent assault history and PTSD were evaluated separately among a subset of 70 women who had received treatment for substance abuse, reported at wave 1. The receipt of treatment provides an objective indicator separate from self-report that indicates a subsample that is likely to have serious substance use problems. Among women who had received substance abuse treatment, 60 percent were polydrug users, 17 percent were alcohol dependent, 16 percent used marijuana, and 7 percent were nonusers of drugs and did not meet alcohol dependency criteria (figure 5). In contrast, among all women who completed wave 1, 72 percent had a lifetime nonuser classification (figure 6).

As shown in figure 7, only 16 percent of women seeking treatment for substance abuse did not have a history of violent assault or PTSD. Seventy-three percent had a history of rape or aggravated assault, and 44 percent had a history of PTSD. One-third had a history of violent assault and PTSD.

DISCUSSION

Data were consistent with the three major hypotheses stated. As predicted by hypothesis 1, a history of violent assault increases the risk of alcohol dependence at wave 1 even after controlling for family history of substance abuse problems and sensation-seeking. PTSD also increased risk of alcohol dependence after controlling for family history, sensation-seeking, and violent assault.

Hypothesis 2, that a history of substance use or abuse increases the risk of violent assault, was partially supported. Specifically, women with increasing categories of substance use were increasingly more likely to suffer violent assault at followup. Although women with alcohol dependence were slightly more likely than nonusers to be assaulted, risk of assault was considerably higher among polydrug users, more than one-quarter of whom were assaulted in the 2-year followup period.

Hypothesis 3, that risk of alcohol dependence at followup is predicted by history of violent assault, substance abuse, past-year violent assault, and PTSD, was also partially supported. Past-year alcohol dependence at wave 1 was the biggest predictor of alcohol dependence at followup, but new assaults and PTSD still predicted alcohol dependence at followup after controlling for prior alcohol dependence. Prior assault did not emerge in the multivariate analyses, probably

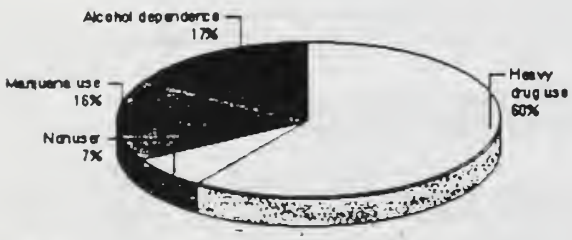

FIGURE 5. *Percent of women receiving treatment for substance abuse by substance use category (n=70)*

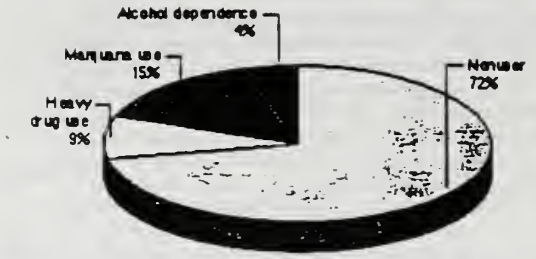

FIGURE 6. *Breakdown of women in wave 1 by lifetime substance use category (percent)*

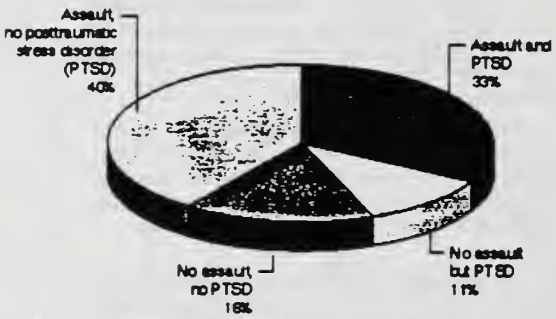

FIGURE 7. *Assault and posttraumatic stress disorder history of women receiving substance abuse treatment (n=70)*

because it is highly predictive of both new assault and PTSD at followup (Kilpatrick et al. 1994).

Evaluation of the timing of alcohol use or dependence and assault is crucial in this type of study. Although a portion of our evaluation (that done exclusively with wave 1 data) was retrospective in nature, there was some evidence that assault tended to precede alcohol use or dependence rather than vice versa. At wave 1, most victims with alcohol dependence said their first assault occurred *before* their first alcohol consumption or intoxication. This is partially a byproduct of the early age at which many rapes occur (62 percent of rapes occur before age 18 and 28 percent before age 11) (Kilpatrick et al. 1992; Kilpatrick et al., in press).

The longitudinal data provide clearer evidence that assault could be significantly associated with new onset of alcohol dependence or heavy use. Among women without alcohol dependence at wave 1, those assaulted at followup were more likely than their nonassaulted counterparts to develop alcohol dependence at followup. This provides the strongest evidence regarding the direction of the relationship between assault and alcohol dependence.

The role of PTSD in alcohol dependence is important. Clearly, assault victims with PTSD are much more likely to have alcohol dependence than victims without PTSD. This finding has two implications: (1) It is important to screen women for PTSD as well as for assault history, and (2) treating assault victims' PTSD might address some of their alcohol dependence problems.

Implications for Prevention

Two major implications of these findings for prevention of substance abuse, particularly alcohol dependence among women, have been identified. First, assault victims, particularly those with a family history of substance abuse problems, those high in sensation-seeking, and those with PTSD, are at high risk of developing alcohol dependence and should be targeted for substance abuse prevention efforts. Second, women with alcohol dependence, heavy alcohol use, and other drug use, particularly hard drug use, are at high risk of being assaulted. This, in turn, increases the risk of subsequent alcohol dependence or heavy use. This group, identified by significant substance use, should be targeted to receive self-protection or crime prevention training. Such strategies may intervene in the vicious cycle that appears to be maintained between victimization, PTSD, and substance abuse in women.

Implications for Future Research

Because assaults occur at relatively early ages, longitudinal studies should begin early in life. Because the current study included only women, the extent to which findings can be generalized to men is

unclear. Currently, we are conducting a national study of male and female adolescents that will address these issues in a much younger age group.

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NATIONAL CENTER FOR PTSD
Research and Education on Post-Traumatic Stress Disorder

Trauma, PTSD, and Substance Abuse

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For anyone working in the field of trauma and PTSD, the role of substance use and abuse may seem obvious. Yet despite the prevalence and clinical significance of substance use disorders in individuals with PTSD, relatively little is actually known about the comorbidity of these disorders. The majority of published papers on this topic are based on clinical experience and/or theory, with little empirical research to support them. Within the empirical literature, studies have varied widely in their approach to examining this problem. Moreover, many studies have examined substance use only as a secondary outcome within a larger analysis of trauma, PTSD, and related disorders. With these caveats in mind, this issue of the *PTSD Research Quarterly* provides an overview of the research literature on PTSD and substance abuse (PTSD/SA) comorbidity. In attempting to better understand this complex literature, the review is organized using the following heuristic framework: (a) substance abuse problems in individuals with PTSD, (b) trauma and PTSD symptoms in substance-abuse patients, (c) "self-medication" and prediction of substance use based on pre-, peri-, and post-trauma factors, (d) moderating variables, and (e) symptom overlap. Results of studies using both clinical and epidemiologic samples are reviewed and compared. Methodologic issues are addressed and directions for future research are discussed.

Prevalence of Substance Use Disorders in PTSD Patients

Studies of individuals seeking treatment for PTSD have consistently found a high prevalence of drug and/or alcohol abuse. For example, in their oft-cited paper, Keane et al. (1988) summarized results of previous studies as well as their own data by suggesting that 60-80% of treatment-seeking Vietnam combat veterans with PTSD also met criteria for current alcohol and/or drug abuse. In a subsequent well-controlled study, Boudewyns et al. (1991) reported that 91% of their inpatient PTSD sample met lifetime criteria for a substance use disorder. In the largest and most recent study of 5,338 veterans seeking treatment within the Department of Veterans Affairs specialized outpatient PTSD programs, Fontana et al. (1995) reported that 44% met criteria for alcohol abuse/dependence and 22% for drug abuse/dependence. These somewhat lower prevalence estimates may reflect both outpatient versus inpatient presentation as well as differences in assessment methodologies.

The high level of comorbidity may be influenced in part by selection bias, as problems with substance use may increase the likelihood of treatment seeking in general. This argument is supported by Helzer et al.'s (1987) epidemiologic survey data from civilian PTSD, which suggested only a small increase in risk for substance abuse. In contrast, Kessler et al. (1995) reported higher comorbidity prevalence estimates in a representative community sample of 5,877 persons. Using the DIS, they found that 52% of men and 28% of women with PTSD also met lifetime criteria for alcohol abuse or dependence. For drug abuse, the numbers were 35% and 27%, respectively. These rates reflected significant increase in risk for comorbid SA over individuals from the same sample who did not have PTSD. Despite these elevated prevalence estimates, community-based estimates among combat veterans are higher still. For example, using the NVVRS epidemiologic data, Kulka

et al. (1990) reported that 73% of Vietnam veterans with PTSD met lifetime criteria for alcohol abuse or dependence. In sum, data from both epidemiologic and clinical studies support the increased prevalence of substance use disorders associated with PTSD. Although the epidemiologic data on civilian trauma are less clear, several studies of civilian trauma in clinical samples (e.g., sexual abuse victims) suggest increased prevalence of substance abuse (see recent review in Stewart, 1996).

Prevalence of Trauma and PTSD in Substance Abuse Patients

An alternative paradigm for examining comorbidity has been to study trauma exposure and PTSD symptoms in individuals engaged in substance abuse treatment. These studies have tended to focus on civilian trauma, thus making comparison with studies of combat-related PTSD difficult. For example, Brown et al. (1995) studied 84 men and women in an inpatient substance abuse treatment program and found that 43% of women and 12% of men met criteria for PTSD based on the civilian version of the Mississippi scale. Women reported an average of 2.1 traumas in their lifetime compared to an average of 1.1 for men, with a greater occurrence of sexual abuse, physical abuse, and rape. In a similar study with a more urban and impoverished sample of women drug users, Fullilove et al. (1993) reported a mean of five traumatic experiences and a PTSD prevalence of 59% based on SCID diagnoses.

Avoiding some of the biases in clinic-based research, Cottler et al. (1992) analyzed data from 2,263 respondents participating in a large epidemiologic survey of substance use and psychiatric illness in the general population. The Diagnostic Interview Schedule was used to assess both substance use and PTSD. Substance users reported having experienced more traumatic events than non-users. Opiate and cocaine users reported the greatest prevalence of traumas, and 19% of these users met criteria for PTSD. Interestingly, regression analyses suggested that cocaine/opiate use among women was a risk factor for PTSD independent of trauma exposure. Although PTSD prevalence estimates were much lower than those reported in treatment-seeking samples, they significantly exceeded estimates among non-substance users in terms of both trauma exposure and PTSD. Thus, data from both clinical and epidemiologic sources support the high prevalence of PTSD comorbidity among substance users.

The Self-Medication Model and Prediction of Substance Use

The comparison of these two approaches to comorbidity begs the question of primacy of one disorder over the other. Many theories and studies of substance abuse comorbidity in PTSD have assumed, either implicitly or explicitly, that PTSD is the primary disorder and that substance use reflects a "self-medication" of symptoms. The model is based loosely on Khantzian's (1985) notion that psychoactive drugs serve to reduce negative affect, and that this reduction negatively reinforces continued substance use. Models of alcohol's reinforcing properties via stress reduction, such as Conger's (1956) tension reduction hypothesis and the more sophisticated stress response dampening model (Levenson et al., 1980), are also consistent with this view.

A number of studies have yielded data that bear either directly or indirectly on the self-medication hypothesis. Two studies examining age of onset in Vietnam combat veterans (Davidson et al., 1990; Bremner et al., 1996) suggest that PTSD and substance abuse have concurrent onset. In addition, data from Bremner and colleagues (1996) suggest that PTSD symptoms and substance abuse not only emerged simultaneously but followed a relatively parallel course over time. Data from Cottler et al.'s (1992) community-based study suggest that drug and alcohol abuse symptoms developed prior to PTSD symptoms; unfortunately, age at traumatic event was not accounted for. In contrast, Kessler et al.'s (1995) epidemiologic data suggest that the occurrence of trauma related to subsequent PTSD development was significantly more likely to precede substance abuse, particularly for women. Differences in sample characteristics, nature of trauma, and assessment methodologies are all likely contributors to these varying results.

Other investigators have provided data on self-medication by using multiple regression models in an effort to identify trauma-related and PTSD-related predictors of substance abuse. Green et al. (1989) focused on the role of trauma type in predicting PTSD and comorbid disorders in 196 Vietnam combat veterans. They found that exposure to grotesque death (e.g., mutilation) and/or graves registration was predictive of alcohol abuse; the presence of a pre-war psychiatric condition also contributed significantly and independently to alcohol abuse comorbidity. McFall and colleagues (1992) examined substance abuse patterns in a sample of 108 combat veterans and 151 non-combat controls. Results of regression equations indicated that drug and alcohol abuse was associated with both PTSD severity and combat-related variables. Interestingly, specific PTSD symptom patterns were predictive of substance use patterns; elevated arousal symptoms were associated with alcohol problems, whereas avoidance/numbing was associated with drug abuse.

Two epidemiologic studies of veterans have also evaluated the contribution of trauma and PTSD-related variables to substance use. Reifman and Windle (1996) used data from the CDC Vietnam experience study of 2,490 Army veterans. Drug use while in the Army was the single best predictor of recent drug use. Combat exposure also predicted recent drug use but, contrary to predictions, this relationship was not mediated by PTSD. The authors interpret this negative finding as a failure to support the self-medication hypothesis. Interestingly, Boscarino (1995) used the same data set in an examination of the role of social support in PTSD but failed to find a relationship between combat exposure and drug use. In his analyses, premorbid factors such as childhood delinquency emerged as the best predictors of recent drug and alcohol use.

Potential Moderators of Self-Medication

The extent to which the self-medication model is useful in explaining comorbidity may be moderated by individual differences, including differences in sociodemographics, treatment history, and family history for substance use and anxiety disorders. Moreover, attitudes and beliefs about drug effects on emotional regulation may be a significant moderator. For example, investigators examining cognitive factors in alcohol use demonstrated that belief in alcohol's tension reducing effect was the best predictor of problem drinking and treatment adherence (Brown, 1985). Cognitive factors such as attention are also thought to play a role in alcohol's effects. For example, Steele and Josephs (1988) demonstrated that alcohol decreased anxiety related to an impending stressor when attention was focused on a distracting activity; in contrast, alcohol increased anxiety in the absence of distraction. Such attentional effects may account in part for the alcohol-induced exacerbation in distress and intrusion symptoms often observed in patients with PTSD.

Symptom Overlap

Additional factors related to commonalities between the two disorders must also be considered in any comprehensive model. First, intoxication and withdrawal states can mimic arousal symptoms of PTSD. In support of this argument, Saladin et al. (1995) found increased hyperarousal symptoms in the early stage of abstinence in PTSD alcohol abusers as compared to individuals with PTSD and comorbid cocaine abuse (see also McFall et al., 1992). Second, a large literature has documented coping skills deficits and a tendency to use avoidant coping among substance abusers. This avoidant coping style, particularly vis-à-vis traumatic material, is also characteristic of PTSD. Third, a common biologic substrate involving catecholamine dysregulation and locus ceruleus activation may contribute to both disorders independently (Kosten & Krystal, 1988). These and other areas of overlap must be considered in accounting for rates and mechanisms of comorbidity.

Future Directions

Future research must be both specific and comprehensive if we are to advance our understanding of PTSD/SA comorbidity. Laboratory studies using drug/alcohol challenge paradigms and self-administration paradigms will increase our knowledge of the parameters of self-medication (see

Stewart, 1996). Studies based on cue conditioning models of symptom and substance use interaction, including both laboratory cue reactivity studies and field studies using "on-line" monitoring of symptoms, urges, and substance use, will also contribute to this effort. At the same time, large studies incorporating multiple predictors of PTSD and SA will account for more covariance in these two disorders. However, studies that do not adequately control for specific features of the population, the trauma, the PTSD, or the substance use patterns are likely to contribute little new information. Finally, prospective studies of individuals at risk for trauma (e.g., military personnel, young substance users) will assist in further elucidating this complex relationship.

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CRIME-RELATED PTSD: EMPHASIS ON ADULT GENERAL POPULATION SAMPLES

Heidi S. Resnick, PhD and
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This article highlights general population studies of crime-related PTSD that provide descriptive characteristics of crime events and information relevant to the study of PTSD etiology. Following a brief overview of critical issues in research on crime and its effects, the article is divided into two major areas: Prevalence, descriptive characteristics, and risk factors for exposure to crime events; and Prevalence, and risk factors for PTSD. Given the critical role of event characteristics in the etiology of PTSD based on the combat trauma literature, it is important to recognize the need to study the detailed characteristics of different types of crime in-depth. Information about PTSD etiology can be gained from and/or cross-validated using new populations other than combat veterans. The study of crime-related trauma permits examination of varied trauma and individual characteristics. Furthermore, crime is much more than an academic issue. Unfortunately, crime is an ongoing threat, both for individuals previously victimized who may continue to live in fear as well as for those who may falsely believe that they are invulnerable to crime. Thus, study of crime victims also allows us to look at individuals who have recently been exposed to extreme stressor events and to follow the course of PTSD and other outcomes over time.

Overview of Critical Issues in Research on Crime and Its Mental Health Impact. A basic limitation of most studies that have included detailed data on crime and crime-related PTSD in adults is that they have focused exclusively on women. Other issues that are problematic in many studies are outlined here. Most existing research on violence and its mental health impact suffers from conceptual or methodological limitations that include the following: a) focus on one type of violence occurring at one time of life, perpetrated by one type of assailant; b) failure to consider the potential impact of multiple violent events; c) use of non-representative samples; d) use of univariate models that do not examine for complex relationships between violence risk factors and mental health impact risk factors; and e) failure to establish the temporal sequence of violence, mental health functioning, and further violence. This review compiles articles that addressed at least some of these major factors to contribute to our knowledge of crime characteristics and outcomes. The data obtained from these studies show that actual crime incidents and effects violate many of our previously held assumptions about the nature of crime and its impact. To the degree that extant studies fail to address these methodological issues, we should critically evaluate findings related to crime prevalence and etiological factors in PTSD.

Prevalence, descriptive characteristics, and risk factors for exposure to crime. Data from several recent studies indicate that 39% to 70% of people in our society have been exposed to civilian traumatic events, a major portion of which are serious crimes (Breslau et al., 1991; Kilpatrick et al., 1987; Norris, 1992; Resnick et al., 1993). In the largest general population sample, which included 4,008 adult women, 36% of the sample reported exposure to rape, other sexual assault, aggravated assault, or the homicide death of someone close to them (Resnick et al., 1993). That large prospective and longitudinal study, called the National Women's Study, was conducted by Dean Kilpatrick and colleagues at the National Crime Victims Research and Treatment Center. Due to a study design that included weighting by age and race to national population estimates, the results allow for estimates of adult female population rates of specific crimes that can be compared to numbers of those exposed to combat or other extreme stressors. For the crime of rape alone, based on a 12.7% lifetime prevalence rate, it was estimated that over 12 million women in this country have had a completed rape sometime in their lives (Resnick et al., 1993). This rate may be conservative as the behaviorally specific items used to assess rape emphasized the presence of physical force or the threat of physical force along with unwanted vaginal, oral, or anal penetration. Thus, a portion of incidents in childhood were likely missed as well as adult cases in which alcohol or drug involvement might make a victim unaware of or unable to stop an assault.

As noted by Resnick et al. (1993), consistent overall crime and trauma exposure rates have been observed in the most recent epidemiological studies, which far surpass rates of civilian trauma estimated by Helzer and colleagues (1987). However, widely discrepant rates of completed rape and sexual assault were found across these studies. Koss (1993), in a special issue of the *Journal of Interpersonal Vio-*

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lence, concluded that this variance appears to be determined by the adequacy of the methods used to assess rape. She also observes that the biases that women may hold about rape often are based on societal stereotypes of crimes believed to involve stranger perpetrators and extensive physical injury. Therefore, as suggested by Resnick et al. (1993), studies that use terms like "rape" in assessment questions are likely to identify only these select cases that meet preconceived notions of rape. Since identification of critical traumatic events is typically the gate-keeping factor in assessment of PTSD, this factor should be considered when interpreting event-specific rates of PTSD as well as identified factors in PTSD etiology. For example, it is likely that an unidentified history of rape may influence development of PTSD in response to other "identified" traumatic events such as disaster, accidents, or other trauma. Due to the high rates of multiple trauma and crime events reported, such a scenario is plausible. This could lead to faulty conclusions about individual and stressor characteristics most likely to lead to PTSD.

Detailed descriptive characteristics about rape and rape victims or more generally classified sexual assault victims include the *Rape in America* report (Kilpatrick et al., 1992), and reports of studies by Koss et al. (1987), Burnam et al. (1988), Wyatt et al. (1992), and Koss and Dinero (1989). Empirical findings overwhelmingly refute many rape stereotypes and indicate that a majority of rapes happen in childhood and that perpetrators are most likely known to victims. Although there are high rates of intense fear reported, there is usually not substantial physical injury involved.

A number of studies provide data on prevalence and characteristics of varied crime incidents including rape, other sexual assault, and aggravated assault (Bachman, 1994; Breslau et al., 1991; Kilpatrick et al., 1985; Kilpatrick et al., 1987; Kilpatrick et al., 1989; Norris, 1992; Norris & Kaniasty, in press; Resnick et al., 1993; Vrana & Lauterbach, 1994). Importantly, the series of studies by Kilpatrick et al., 1987; Koss et al., 1987; and Resnick et al., 1993, contain detailed descriptions of thorough structured assessment instruments for identifying rape or rape and other crime events. As suggested by Resnick et al. (1991), development of good assessment instruments in the PTSD area should focus as heavily on event characteristics as on PTSD and other comorbid symptoms. Currently our PTSD assessment instruments are inadequate in this component of assessment.

Beyond the high rates of exposure observed, a consistent finding across studies is that a large portion of those experiencing one event experience more than one. In the subset of studies that examined risk factors for exposure to crime, a consistent finding is that previous history of crime is a risk factor for new crime. This important finding has also been observed in prospective analyses (Kilpatrick et al., in press; Norris & Kaniasty, in press). Finally, the DSM-IV Field Trial study (Kilpatrick, Resnick, Freedy et al., in press) also found that a majority of those in a primarily outpatient sample had experienced multiple Criterion A events. Data related to characteristics of surviving family members of homicide victims and factors that put them at risk for PTSD are described in Amick-McMullan et al. (1991). This group has largely been underserved and unrecognized by both the mental health and criminal justice systems. Aspects of crime victims' experiences with the criminal justice system are described in Freedy et al. (in press). Several papers have focused on domestic violence trauma and begun to clarify parameters that are important to study including types of injury and chronicity (Astin et al., 1993; Dutton, 1992; Kemp et al., 1991) that may increase risk for PTSD.

Prevalence and risk factors for PTSD. Data from general population studies cited above clearly indicate that crime events are associated with high rates of PTSD. Breslau et al. (1991) found a rate of PTSD of 24% among those exposed to civilian trauma. Resnick et al. (1993) observed lifetime prevalence (one month duration of symptoms) rates ranging from 25% for crime more generally, 32% for completed rape, and rates approaching 50% for those whose crimes include fear of death and receipt of injury, regardless of specific crime type (Resnick et al., 1993). The latter rate is quite consistent with the high chronic rates of PTSD observed in rape victim samples that are self-identified or who report the crime to someone (Kramer & Green, 1991; Rothbaum et al., 1992). As previously noted, these types of rape cases are most likely to be violent or stereotypic incidents which may account for the high PTSD prevalence. Consistent with this notion, Kilpatrick et al. (1989) identified critical crime risk factors for PTSD which included completed rape, life threat and injury. Rates of PTSD (regardless of symptom duration) of 80% were observed when all three characteristics were present in an individual's history. That rate is similar to the rate of PTSD specific to rape observed by Breslau et al., indicating that Breslau's subjects were likely to have experienced rapes that fit stereotypic characteristics.

Several papers noted in this edition of the *PTSD Research Quarterly* have examined more varied mental health effects associated with crime trauma (Burnam et al., 1988; Gidycz & Koss, 1991; Kilpatrick et al., 1985; Saunders et al., 1992). In addition to studying the effects of crime on other mental health outcomes, these factors need to be evaluated in terms of risk factors for exposure to subsequent events and subsequent mental health outcomes. Such studies require careful assessment of age of onset of mental health disorders and crime events and should include sensitive screening for incidents that may occur in childhood. Also, prospective studies such as those reported by Norris and Kaniasty (in press) and Kilpatrick, Resnick, Saunders et al. (in press) will be most useful for addressing these issues.

In terms of event types, rape and aggravated assault are consistently associated with highest PTSD rates. Several studies have examined risk factors for PTSD, given event exposure. A major caution in interpreting some extant studies is the fact that rape and other sexual assault were likely vastly underdetected and underestimated. This criticism likely also applies to our work and that of others in

reference to adequacy of tapping domestic violence versus more stereotypic aggravated assaults. As suggested by Resnick et al. (1993), examination of potential premorbid vulnerability factors such as demographic characteristics may be premature without first controlling for critical event characteristics. Despite this limitation, a consistent finding across several studies cited above is that history of multiple traumatic events is an important risk factor for PTSD. Data from Kilpatrick, Resnick, Saunders et al. (in press) indicate that there is an additive effect of prior crime history such that it puts one at risk of exposure to further crime and additionally puts one at risk for PTSD or psychological distress given exposure. In contrast to some original descriptions of the Criterion A stressor as a discrete, acute event, the picture emerging is that repeated exposure to such events is associated with greatly increased risk of PTSD.

Future Directions. Further research is necessary to identify more detailed characteristics involved in exposure to multiple traumatic events and risk of PTSD given such exposure. Our knowledge of strategies for thorough crime and other traumatic event history assessment should be employed in the study of a variety of mental and physical health as well as behavioral outcomes that may relate to extreme stress; for example, to further our understanding of the increased health complaints and utilization of medical services among crime victims (Kimerling & Calhoun, in press; Koss et al., 1991). Recently, Kessler et al. (1994) published a report of lifetime and past-year prevalence of psychiatric disorders within a nationally representative sample of men and women. Although the data are not included in that report, the study also included a thorough assessment of lifetime history of traumatic events and crime. Analyses of associations between PTSD and other psychiatric disorders with a variety of traumatic events should be available in the future from that study.

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SELECTED ABSTRACTS

AMICK-MCMULLAN, A., KILPATRICK, D.G. & RESNICK, H.S. (1991). **Homicide as a risk factor for PTSD among surviving family members.** *Behavior Modification, 15,* 545-559. In this National Institute of Justice-funded study, random digit dialing telephone survey methodology was used to screen a large, nationally representative sample (N = 12,500) of the noninstitutionalized U.S. adult population to identify surviving family members and friends of victims of criminal homicide and alcohol-related vehicular homicide. A total of 9.3 percent of the national sample had lost a family member or friend to homicide. Immediate family survivors (n = 206) completed an interview assessing demographic characteristics and DSM-III-R criteria for homicide-related PTSD. The interview participation rate was 84 percent. Among immediate family survivors, 23.3 percent developed PTSD at some point in their lifetimes, and 4.8 percent met full diagnostic criteria for PTSD during the preceding 6 months. Survivors of criminal and vehicular homicide victims were equally likely to develop PTSD. Survivors who experienced the homicide during their childhood, adolescence, or adulthood also showed equal likelihood of PTSD. Clinical implications of findings are discussed.

ASTIN, M.C., LAWRENCE, K.J. & FOY, D.W. (1993). **Posttraumatic stress disorder among battered women: Risk and resiliency factors.** *Violence and Victims, 8,* 17-28. This study proposed that diagnosable levels of PTSD would be found among battered women and that the level of exposure to violence in the battering relationship would be an important contributing factor to the development of PTSD while other pre-trauma and post-trauma variables such as social support, intercurrent life events, religiosity, and developmental family stressors would also be related to PTSD symptom levels. Fifty-three battered women were given standardized self-report measures to assess these variables. As hypothesized, a significant proportion of battered women in the sample were diagnosed as PTSD positive. Multiple regression analyses revealed that violence exposure severity, recency of the last abusive episode, social support, intercurrent life events, intrinsic religiosity, and the developmental family stressors predicted 43% of the variance in PTSD symptomatology.

BACHMAN, R. (1994). **Violence against women. A National Crime Victimization Survey report.** U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. This report uses data from the National Crime Victimization Survey (NCVS) of the Bureau of Justice Statistics (BJS) to provide a detailed accounting of violent crime victimization against women and how this victimization differs from victimization against men. Several types of violent crime were investigated, including rape, robbery, and assault. In addition, a special section examined the incidence rates and contextual characteristics of personal larceny victimizations which involved contact, such as purse snatching and pocket picking.

BRESLAU, N., DAVIS, G.C., ANDRESKI, P. & PETERSON, E. (1991). **Traumatic events and posttraumatic stress disorder in an urban population of young adults.** *Archives of General Psychiatry, 48,* 216-222. To ascertain the prevalence of PTSD and risk factors associated with it, we studied a random sample of 1007 young adults from a large health maintenance organization in the Detroit, Michigan area. The lifetime prevalence of exposure to traumatic events was 39.1 percent. The rate of PTSD in those who were exposed was 23.6 percent, yielding a lifetime prevalence in the sample of 9.2 percent. Persons with PTSD were at increased risk for other psychiatric disorders; PTSD had stronger associations with anxiety and affective disorders than with substance abuse or dependence. Risk factors for exposure to traumatic events included low education, male sex, early conduct problems, extraversion, and family history of psychiatric disorder or substance problems. Risk factors for PTSD following exposure included early separation from parents, neuroticism, preexisting anxiety or depression, and family history of anxiety. Life-style differences associated with differential exposure to situations that have a high risk for traumatic events and personal predispositions to the PTSD effects of traumatic events might be responsible for a substantial part of PTSD in this population.

BURNAM, M.A., STEIN, J.A., GOLDING, J.M., SIEGEL, J.M., SORENSON, S.B., FORSYTHE, A.B. & TELLES, C.A. (1988). **Sexual assault and mental disorders in a community population.** *Journal of Consulting and Clinical Psychology, 56,* 843-850. In a cross-sectional probability survey [the Epidemiologic Catchment Area program] of 3,132 household adults representing two Los Angeles communities, lifetime diagnoses of nine major mental disorders were compared between those who reported that they had been sexually assaulted at some time in their lives and those who reported no sexual assault. Sexual assault predicted later onset of major depressive episodes, substance use disorders (alcohol and drug abuse or dependence), and anxiety disorders (phobia, panic disorder, and obsessive-compulsive disorder) but was not related to later onset of mania, schizophrenic disorders, or antisocial personality. Those who were assaulted in childhood were more likely than those first assaulted in adulthood to report the subsequent development of a mental disorder. Demographic characteristics of gender, age, Hispanic ethnic background, and education, however, were generally unrelated to the probability of developing any specific disorder after being assaulted. Finally, major depression, drug abuse or dependence, antisocial personality, and phobia were all associated with a higher probability of subsequent sexual assault.

KILPATRICK, D.G., BEST, C.L., VERONEN, L.J., AMICK, A.E., VILLEPONTEAUX, L.A. & RUFF, G.A. (1985). **Mental health correlates of criminal victimization: A random community survey.** *Journal of Consulting and Clinical Psychology, 53,* 866-873. Abstracted in *PTSD Research Quarterly, 1(3),* 1990.

KILPATRICK, D.G., RESNICK, H.S., SAUNDERS, B.E. & BEST, C.L. (in press). **Rape, other violence against women, and posttraumatic stress disorder: Critical issues in assessing the adversity-stress-psychopathology relationship.** In B. Dohrenwend (Ed.), *Adversity, stress, and psychopathology.* Washington, DC: American Psychiatric Press. Data are presented from a representative national sample of women (N=4,008) assessed initially (Wave 1) and at two yearly follow-up waves (Waves 2 and 3) to prospectively evaluate risk factors for exposure to crime as well as risk factors for development of PTSD. A total of 3,359 women who had initial assessment and follow-up data were included in analyses. Descriptive data are presented about prevalence and characteristics of lifetime incidents of completed rape (N=714) and history of aggravated assault reported at Wave 1, as well as prospectively assessed incidents of completed rape (N=41) and aggravated assault (N=115) that occurred at follow-up. Univariate and multivariate analyses were used to determine risk factors for any new assault victimization (rape or aggravated assault) which occurred among 4.3% of women and for past 6 month prevalence of PTSD (5.1%). Results of multivariate logistic regression analyses indicated that Wave 1 history of assaults, income less than $10,000 and the trait measure of sensation seeking were significant predictors of assault victimization at follow-up. Significant predictors of current PTSD at follow-up assessment included Wave 1 victimization history, new victimization by assault at follow-up, and high sensation seeking. The finding that prior history of rape or aggravated assault substantially increased risk for both new victimization and PTSD is consistent with results of several studies. Implications for preventive approaches are discussed.

KILPATRICK, D.G., SAUNDERS, B.E., AMICK-MCMULLAN, A., BEST, C.L., VERONEN, L.J. & RESNICK, H.S. (1989). **Victim and crime factors associated with the development of crime-related post-traumatic stress disorder.** *Behavior Therapy, 20,* 199-214. This study examined the relationships between the development of Crime-Related Post-Traumatic Stress Disorder (CR-PTSD) and selected victim and crime characteristics. The sample consisted of 391 adult female residents of Charleston County, South Carolina, of whom 294 were crime victims assessed for CR-PTSD. Comparisons of CR-PTSD positive (n = 82) and CR-PTSD negative (n = 212) groups found significant differences on the variables of current age, years since most recent crime, experiencing a completed rape, perceiving a life threat during a crime, and sustaining physical injury during a crime. No differences existed on other assessed victim or crime variables. Hierarchical multiple regression analysis found that life threat, physical injury, and completed rape each made significant individual contributions to explaining CR-PTSD. Hierarchical discriminant function analysis correctly classified 80.6 percent of the respondents. Rape, life threat, and physical injury had a synergistic effect on CR-PTSD in that victims whose crime history included all three elements were 8.5 times more likely to have developed CR-PTSD than those with none of the three elements. Rape was associated with CR-PTSD after controlling for the effects of violence and dangerousness, suggesting that rape has other elements important to the development of CR-PTSD.

KOSS, M.P. (1993). **Detecting the scope of rape: A review of prevalence research methods.** *Journal of Interpersonal Violence, 8,* 198-222. This article focuses on rape prevalence research and examines the relationship between measurement methods and level of rape detection. After a brief overview of empirical data, the relative threat to the validity of prevalence estimates posed by fabrication versus nondisclosure is weighed. Then various methodological choices and their relationship to the magnitude of prevalence estimates are examined. Addressed are the definitions underlying the studies, the questions used to elicit reports of rape, the context in which rape questioning occurred, the confidentiality of the responses, the method of data collection, and the sample integrity. The conclusions include 10 recommendations for the design of future studies of rape prevalence.

KOSS, M.P., GIDYCZ, C.A & WISNIEWSKI, N. (1987). **The scope of rape: Incidence and prevalence of sexual aggression and victimization in a national sample of higher education students.** *Journal of Consulting and Clinical Psychology, 55,* 162-170. Because of inadequacies in the methods used to measure sexual assault, national crime statistics, criminal victimization studies, convictions, or incarceration rates fail to reflect the true scope of rape. Studies that have avoided the limitations of these methods have revealed very high rates of overt rape and lesser degrees of sexual aggression. The goal of the present study was to extend previous work to a national basis. The Sexual Experiences Survey was administered to a national sample of 6,159 women and men enrolled in 32 institutions representative of the diversity of higher education settings across the United States. Women's reports of experiencing and men's reports of perpetrating rape, attempted rape, sexual coercion, and sexual contact were obtained, including both the rates of prevalence since age 14 and of incidence during the previous year. The findings support published assertions of high rates of rape and other forms of sexual aggression among large normal populations. Although the results are limited in generalizability to postsecondary students, this group represents 26% of all persons aged 18-24 in the United States.

NORRIS, F.H. (1992). **Epidemiology of trauma: Frequency and impact of different potentially traumatic events on different demographic groups.** *Journal of Consulting and Clinical Psychology, 60,* 409-418. The frequency and impact of 10 potentially

Adult Domestic Violence: The Alcohol Connection

The following address was first given by Theresa M. Zubretsky
Director of Human Services Policy and Planning
New York State Office for the Prevention of Domestic Violence
October 19, 1995 - Saratoga, New York

My interest in the relationship between domestic violence and substance abuse was prompted by my experiences working in both fields, first as the director of a residential and non-residential domestic violence program and later as part of the New York State Council on Alcoholism and Other Drug Addictions.

I discovered that people in the two fields really knew very little about each other, and what we thought we knew was often riddled with misconceptions about the other system. From each side, we were very often working with families struggling with the "other" problem and not only were we not talking with each other, but worse, we were often doing things in the interests of sobriety that undermined safety, and in the interests of safety that undermined sobriety. I think one battered woman's observation about her own recovery sums up the urgency of the need for us to work together. She said, "As an alcoholic, AA and treatment saved my life. But as a battered woman, it nearly killed me."

We need to understand what she meant by that. It's a real dilemma that we've created. In seeking recovery, chemically dependent battered women may become further endangered; and in seeking safety, we often limit women's access to help because of their chemical dependency. We can do better than that. Frankly, we have to. Because until we do, it's battered women and their children who will continue to pay the heaviest price.

Every day, we learn more and more about the tremendous impact of alcohol and other drugs on women's lives. Four million women experience problems with alcohol - two million with cocaine. And with seventy percent of prescriptions for tranquilizers, sedatives and stimulants being written for women - it's no wonder that women are twice as likely as men to become addicted to prescription drugs in combination with alcohol - a dangerous and often fatal combination.

Women suffer more serious health problems from alcohol and other drug abuse than men. They can consume much lower levels of alcohol than men and still get sick and die of liver disease. Alcohol increases women's risk of breast cancer, menstrual and circulatory disorders and a host of other health-related illnesses.

As women who are involved with substances emerge from the shadows, however, they pay a different kind of price for their increased visibility. Women who drink heavily are stigmatized as sexually promiscuous; as neglectful mothers; and as embarrassments to their husbands. Those who are pregnant are sent to jail. In society's eyes, women with alcohol problems are outcasts - they have failed to fulfill their "appropriate" social roles.

The disdain with which society looks upon addicted women may explain why, despite the increased risks associated with women's substance abuse, the problems women experience related to alcohol and other drugs continue to be viewed less seriously than men's. Until fairly recently, research about women and addiction was virtually non-existent. It also wasn't until recently that discrete treatment services for women began to be developed based on the radical notion that women are different than men, that they need an array of comprehensive services more extensive than one that merely focuses on alcohol and other drug use. Many factors affect a woman's substance abuse problems (victimization is one of those factors), and while there is an encouraging trend to attend to the

interrelationships among the woman, the treatment program, and the community, such "relational" models of treatment for women are still few and far between.

Domestic violence takes an even more profound toll on the lives of women. It is the most serious criminal justice issue facing women today, occurring more frequently than any other crime in this country. According to the FBI, every 15 seconds, a woman is beaten by her male partner. There are over two million reported victims each year; but only about one in ten cases of domestic violence ever gets reported.

Domestic violence is the leading public health issue facing women today, causing more injury to women in America than auto accidents, muggings and rapes combined. Statistically speaking, a woman is safer on the street than she is in her own home. Domestic violence has been correlated with chronic pain, and a wide variety of stress-related physical symptoms including sleep and appetite disturbances, gynecological problems, miscarriage and other pregnancy complications and, of course, substance abuse.

Battering and addiction are devitalizing and killing women every day. In both of these fields, we are battling barriers in our communities and in existing systems that not only prevent women from getting the help that they need, but which frequently revictimize the very women we are trying to assist. In the next hour, I'm going to talk about some of the things that frustrate our efforts to promote both safety and sobriety for victims of domestic violence. I hope that it will be the beginning of a continuing dialogue that will improve our understanding of the issues and that will lead to better communication, coordination and collaboration between our service systems.

To that end, I also want to make a request. My plan this morning is to reflect as best I can what I've learned from the collective experience of battered and formerly battered women, battered women's advocates, batterers intervention specialists and my own fifteen years in the field. Some of what I say may very well conflict with your own views or experiences. My request is that whether or not what I say resonates with your experience, let's keep talking. Because one thing I am sure about is that we're all committed to doing what we can to ensure the safety of those who reach out to us for help. Fostering a constructive and respectful dialogue is what I understand this conference is about and it's an effort which I'm honored to have been invited to participate in.

You know, battered women and chemically dependent women have a lot in common. Both often experience tremendous guilt, shame, despair, lack of support, isolation, uncertainty and confusion. Battered women and chemically dependent women are often confronted with a system (formal and informal) that blames them and holds them responsible for their situation.

Battered and chemically dependent women are frequently not believed - neither is considered a particularly "credible" source of information. Both fear judgment regarding their mothering and face very real risks of losing their children to a system that deems them "unfit".

For women who are both battered and chemically dependent, you can take this list of issues and increase its impact - not by merely doubling it - there's more of a synergistic impact on women with both problems. For example, battered women who are also chemically dependent face an enormous lack of emergency services. Where does a woman go in the middle of the night if she has been drinking and has children in tow, and it's not safe for her to stay in her own home?

A battered woman's addiction provides her partner with yet another weapon he can use as a means to control her. "If you leave me, I'll see to it that you don't get custody of the kids. No judge is going to give a drunk like you custody."

Her drinking or drugging may also become the excuse for his violence. "If you weren't such a lush, such a junkie, this wouldn't be happening."

Drug-addicted battered women are more likely to internalize blame for the violence and are more likely to be blamed by others. In fact, here's a classic example of a double standard regarding alcohol

use: victims who are drinking are more likely to be blamed for their own victimization; but batterers who are drinking are less likely to be blamed for their violence.

So, what does a chemically dependent battered woman confront when, despite the formidable barriers, and with some reserve of fortitude and courage that I can only try to imagine, she reaches out to us for help? All too frequently, she confronts a system utterly unprepared to meet her dual needs for safety and sobriety.

When there is a lack of information about domestic violence in the substance abuse treatment system, many of the signs of domestic violence which emerge during the course of an individual's treatment can be completely overlooked or otherwise misinterpreted. In general, helping interventionists tend to see and understand people and their behavior through their own familiar framework.

I was reminded of this point just this past weekend when my brother recounted an incident that occurred one summer during my college years. I was living with two of my brothers in my parents' house while they vacationed at the shore. I came home one night after dark, no one home, and heard a rustling in the attic. Now, independent I may have been. Stupid I wasn't. I fled, called my brother and the police and converged back at the house shortly after. Two police officers responded and cautiously entered the house, guns drawn and raised. They searched the first floor, and the basement; moved up the stairs to the second floor landing, searched my parents' bedroom and the bathroom. The door was closed to the room on the left and they cautiously opened it.

What a sight! The room was in complete disarray. Drawers were half open with clothes hanging out and strewn across the floor and furniture. The mattress was half off the bed, the bed linens lay in a crumpled heap on the floor. Wall decorations were hanging all lopsided. Books, papers, odds and ends everywhere. Eying the scene, one of the officers turned his partner with a grave look on his face, and said, "Something definitely happened here." His partner, looking concerned, nodded in agreement. At that moment, my brother bounded up the stairs, "Oh, no, no", he said. "That's my room. It always looks like that."

The officers had no way of knowing that Oscar Madison was a John Zubretsky wannabe. They entered our house armed with the tools of their trade; not just the guns, but their experience, their training, their investigative skills, and their duty to protect us. So, when they stood surveying my brother's bedroom, they saw a ransacked room. What to my brother was a cozy little refuge, to them was an obvious crime scene. They saw the scene through their own professional lens. (The intruder, by the way, turned out to be a bat - to my immense relief and, I might add, to the officers' ultimate amusement.)

We're all susceptible to interpreting a given scene through our own individual lens with the tools that we have available. Give me a hammer and everything starts looking like a nail. In the case of chemical dependency counselors, the addictions "lens", if you will, can sometimes prevent them from identifying violence as the root of a wide variety of presenting problems they frequently encounter. And their responses, therefore, can be devoid of safety-related interventions.

For example, take a case in which what the counselor sees is a female client, Sarah, who is not following through on her treatment plan. She's not making all of her meetings and still hasn't gotten herself a sponsor. She missed an appointment with her aftercare counselor. And she mumbles an excuse that she hasn't been able to get adequate child care to do the things she's supposed to be doing.

What the counselor may think is that these failures are symptoms of Sarah's resistance. She's not taking her sobriety seriously. Not ready or willing to put down the drink or the drug.

What the counselor may not see is that ever since Sarah's been in treatment, her husband's violence and controlling behavior has been getting worse. He's been reneging on providing child care and has refused her the money for a sitter as a way of preventing her from keeping meetings and appointments. He leaves her a list every morning before he leaves for work of the errands and tasks

he expects her to do that day and it seems the list is getting longer and longer. He's begun to share his concern that Sarah's being away from home so much has been really hard on the kids. He tells her she's selfish and self-absorbed. And Sarah walks on eggshells, trying to keep the peace so that maybe she won't get hit.

What the counselor may not see is that the price Sarah is paying in her attempts to get sober is the price of her safety.

Or, take the case in which what the counselor sees is a male client, Tom, an executive who's been following through on every leg of his treatment plan - ninety meetings in ninety days, attending all of his appointments and group sessions and family sessions. His wife comes in with him, but she never says very much. The last time they came in together, Tom reported that his wife had urged him to attend a party with her, pressured him even and he agreed to go. What she'd failed to mention was that it was a cocktail party. When they arrived, Tom was immediately surrounded by alcoholic beverages of infinite variety.

What the counselor may think is that this is a classic case of attempted sabotage. Here's a woman, threatened by the implications of her husband's newfound sobriety on her role in the family, making attempts to undermine his recovery.

What the counselor may not see is that Tom has been violent and controlling with his wife of nine years for the duration of the relationship. She didn't say much in the family sessions because she had learned that the less she said, the less likely she was to be beaten up for it later on. Since her husband had been in treatment, she had been trying hard not to rock the boat or get him upset because he would yell at her - scream at her - and tell her that she was threatening his sobriety. He told her that if she really loved him, she'd be more supportive and he used the things she had said in the family sessions as proof of her disloyalty and non-support.

And he'd hit her, only now that he was in treatment, he'd say that it was because he was under a lot of stress and feeling like he wanted to pick up. Or he'd hit her and apologize, saying he should have gone to a meeting that day.

His wife began to realize that the violence was worse since Tom got into treatment. He had been less violent toward her and the children when he was drinking. So, sure, she got him to go to the cocktail party, hoping that if he slipped, if he picked up, she and her children would be more safe.

What we "see" is not always the whole picture. Sometimes it's merely a lack of information that clouds the view, not having the awareness that violence takes a tremendous toll on the lives of countless numbers of families in our treatment programs. Not having an awareness of the direct implications of that violence on our clients' abilities to get sober. Sometimes, however, what clouds the view is not so much a lack of information as much as it is misinformation.

One common misunderstanding is the widespread belief that domestic violence is a problem rooted in individual pathology, of batterers, or perhaps even worse, of victims. In the case of batterers, a batterer is seen as someone who has a hard time keeping his temper. Or is under a lot of stress. Or insecure. Perhaps provoked. Someone who lacks social skills. A drinker. A drugger. And lately, even genetics is taking the rap. But battering isn't caused by any of those things. It isn't about anger. It's not about stress or insecurity. It's not a result of drinking or drugging. It's about control.

When we listen to battered and formerly battered women tell their stories, the types of violence and coercion they endure - isolation, threats, degradation, and induced debility and exhaustion - reads less like a list of batterers' social skills deficits and a whole lot more like an Amnesty International list of the coercive tactics used in human torture - to control another person - to break someone's spirit.

Isolation is a mechanism of control which deprives a victim of social support and decreases her ability to resist. Battered women tell us,

"He moved me away from my friends."
"He didn't want me to go anywhere unless he was with me."
"He would eavesdrop on all my conversations."
"He intercepted my mail."
"He cut off my means of transportation."
"He was rude to my friends and family so they didn't want to be around us anymore."
"He'd tell me that my mother was the source of all our problems."

Threats are a mechanism of control which cultivate anxiety, despair and FEAR. Women tell us,

"He threatened to kill the cat"
"He said he'd take the kids."
"He said he'd have me committed."
"He said he'd burn down the house."
"He said he'd find me if I left and mess me up good."
"He had this look and I knew what it meant."

Degradation is a way to damage a person's self worth and make them question their own capabilities and desirability.

"He told me I was fat and ugly."
"He'd call me names and embarrass me in public"
"He'd rub my face in the dinner if he didn't like what I'd prepared"
"He'd tell me I was a lousy mother. A lousy lover."
"He'd tell the kids that I was stupid to the point where they began to call me stupid and blame me."

And finally, induced debility and exhaustion is a way to weaken one's mental and physical ability to resist.

"He wouldn't let me sleep"
"He started fights late at night"
"He'd wake me all the time in the middle of the night and force me to have sex with him."

And, of course, there's the physical abuse - assaults that are often life-threatening. In fact, 1/3 of all reported physical assaults on battered women involve the use of a weapon. And they experience sexual violence. Rape. Sexual degradation. Forced unprotected sex. Once assaulted, the threat is always there that it could happen again.

Battering isn't a series of isolated blow-ups. It's not a symptom of an "impulse control" problem. It is a process of deliberate intimidation. These are not by and large men who are generally violent. The majority of batterers are exclusively coercive and violent in the privacy of their homes - with their female partners. The majority of them don't drink and don't drug. How a man who batters deals with stress, his feelings and conflict depends entirely upon whom he's dealing with.

As many as 20% of men in America engage in violent and controlling behavior with their partners and other family members. While victims of domestic violence can be anyone - including gays and lesbians and to a much lesser degree men who are abused by their female partners - it's no accident that women are the victims of men's violence in 91% of all adult domestic violence. The long historical and legal tradition in this country which gave men the legal right to use violence as a means to control, to discipline their wives and children and to keep the social order isn't so far behind us. In New York, it wasn't until 1977 - less than twenty years ago - that the law gave married battered women the right to press charges in criminal court. It wasn't until 10 years ago that it became a crime in this state when a man raped his wife. It wasn't until just last year that it became law that when a

man commits a felony level assault against his partner or violates an existing order of protection that he has to be arrested.

There may be progress towards clearly criminalizing domestic violence, but the attitudes and beliefs that support violence against women persist. There is enormous support and a high level of tolerance in our culture for men to be violent. And there is enormous support in our culture to hold victims responsible. Domestic violence is less a problem of men's individual pathologies, than it is a problem rooted in a social and cultural legacy of male power over the lives of women and children. Batterers batter because they can and because it works - it works to control the behavior of their family members.

Another belief that can effectively distort the picture that counselors have of battered women is the one reflected in the question, "Why doesn't she just leave?", or asked even after she leaves, "Why didn't she leave sooner?"

As Ann Jones points out, "Why doesn't she just leave?" is one of those questions that doesn't call for an answer. It makes a judgment. It suggests that a woman who hasn't left isn't concerned about her safety or hasn't been active in trying to protect herself and her children. It suggests further that a battered woman has the freedom to choose to leave, and presupposes, that if she leaves, she'll be safe.

The truth is that coercion and fear make it difficult, even impossible sometimes, for women to leave or to leave safely. How "free" is a woman to choose to leave when she's been told time and again, "If you leave me, I'll kill you. Or I'll kill the kids. Or you'll never see the kids again." And the fears generated by these threats are well-grounded in fact. Leaving is by far the most dangerous time for battered women - a time when they are most likely to be assaulted and most likely to be killed. Two thirds of all women killed by their male partners are killed after they've left. Batterers are the most tenacious of criminals when it comes to the active pursuit of their victims. Every day, four or five men track down and murder women who are trying to get away from them.

If fear weren't enough of an obstacle to leaving, what about the enormous financial obstacles many women face in making the choice to leave, being forced into poverty or onto welfare. What about the fact that when women seek help from the criminal justice system, they don't always get justice. Instead they get, "What did you do to make him so angry?" or "It's just a domestic. Plea it down." Or their clergy person or minister encourages them to work harder at the marriage. Or their family and friends tell them "You made your bed". What about the pressures from children to stay with daddy? To stay in their own house, neighborhood and school. What about the cultural and language barriers? Immigrant women reluctant to come forward for fear of deportation. What about the barriers that exist for women as a result of institutionalized racism and institutionalized homophobia? What about the woman in the wheelchair who can't make it up the courthouse steps? What about the fact that when battered women do tell, they're blamed, they're not believed, they're not taken seriously?

Battered women have to confront all of the barriers that non-battered women have to face in trying to end a relationship. On top of it, they have to deal with the additional obstacles that make them afraid - and reasonably so - the threats, the coercion, and the violence.

Asking the question, "Why doesn't she just leave?" in one sweeping stroke transforms this immense social problem into an individual responsibility - which, when the victim fails to meet that responsibility, to solve the problem, we then explain through her personal pathology. But as hard as some researchers have tried, no one has found anything about battered women that makes them different from non-battered women, nothing that explains why this violence has happened to them - not their personalities, not their socio-economic status or education levels, not their cultural background, not childhood histories of victimization, not parental substance abuse, not their levels of self-esteem, not their psychological profiles - nothing. Women are not battered because they're sick, or emotionally or psychologically deficient or dysfunctional, or suffering from low self-esteem. Battered women are women who become trapped -in extraordinarily difficult and dangerous situations and often with less than adequate options.

Becoming a victim of someone else's choice to use violence and coercive behavior can happen to any woman - and does. If you're female, it is accurate to believe "it can happen to me".

Now, I know, that for many of you, your experience in working with victims of adult domestic violence may have suggested to you that the majority were victimized as children, or came from families in which there was alcohol or other drug abuse. But please do not make assumptions about who battered women are based on your clinical samples. In substance abuse treatment settings, I would expect that the majority of chemically dependent women will also have a history of childhood victimization. There's a huge correlation between the two. So, when one of these women is also an adult victim of adult domestic violence, it's an easy leap to perceive a correlation between childhood victimization, or family of origin distress, and her adult victimization. But when we step back and look at all battered women, rather than at clinical samples, those connections just don't hold up. There's only one risk factor for being a battered woman - and that's being female.

It's not hard to imagine how battered women are perceived as incapable of making good decisions if it's believed that there are decisions she could make to stop the violence. It's not hard to imagine how battered women are perceived as overly dependent if it's believed that her dependency was a precondition of her victimization rather than an outcome of control. It's not hard to imagine how battered women are perceived as women who "play the victim" if it's believed that if we could just get her to stop thinking like a victim, she'd stop being one. It's not hard. It's just wrong. In fact, when I hear people describe battered women in this way, I wonder if we're talking about the same women. When we fail to experience battered women as resilient, courageous, resourceful, active in decision making and concerned about their safety, it's because "you can't see it until you believe it." We fail to see it because of our faulty presuppositions about the causes of domestic violence and the options available to victims.

The key to explaining or solving battered women's victimization will not be found within victims themselves. Rather than asking, "What is it about her that she stays?", we need to ask, "What is it about our communities, our systems, our society that allows men to perpetrate domestic violence and that keeps women trapped?"

If battering could be explained through the pathology of batterers or through the pathology of victims or through their independent or combined use of substances, then we might reasonably conclude that if and when these individuals begin to get sober and begin to practice true recovery, that batterers will stop battering and battered women will get themselves safe. But it just doesn't work that way.

It doesn't work because alcohol use/alcoholism doesn't cause battering. The belief that alcoholism causes domestic violence, however, is a notion widely held both in and outside of the substance abuse field, despite a lack of information to support it. Although research indicates that among men who drink heavily, there is a higher rate of domestic violence and a higher rate of perpetrating assaults resulting in serious physical injury than exists among non-substance using men, most domestic violence occurs completely outside the context of alcohol or other substance abuse. The majority of batterers aren't alcoholic and the majority of alcoholic men don't abuse their partners.

Even for batterers who do drink, there is little evidence to suggest a clear pattern relating the drinking to the abusive behavior. The majority (3/4) of physical assaults occur in the absence of alcohol use. Further, there is no evidence to suggest that alcohol use or dependence is linked to the other forms of coercive behaviors that are part of the pattern of domestic violence. Economic control, sexual violence and intimidation, for example, are often part of a batterer's ongoing pattern of abuse with little or no identifiable connection to his use of or dependence on alcohol.

The belief that alcoholism causes domestic violence is rooted in not only a lack of information about the nature of battering, but also from adherence to the "disinhibition theory". This theory suggests that the physiological effects of alcohol include a state of lowered inhibitions in which an individual can no longer control his behavior. Research conducted within the alcoholism field, however, has not produced any convincing evidence to support this view. Rather, the research has consistently

indicated that connections between alcohol use and subsequent aggressive behavior are primarily mediated by the expectations that individuals attach to the drinking experience. When the cultural norms and expectations about male behavior permit and support aggressive behavior when under the influence of alcohol, men operating within that cultural context are more likely to display aggression when drinking than men in cultures whose norms and expectations do not tolerate that behavior.

In spite of this, there is a widespread bias to hold people who commit crimes while under the influence of alcohol or other drugs less accountable than those who commit crimes in a sober state. Batterers, who have not been held accountable for their abusive behavior in general, find themselves held to an even lesser standard of accountability for battering perpetrated when they are under the influence of alcohol. The alcohol provides a ready and socially acceptable excuse for the violence.

Men who batter blame the woman, blame the drink, and given the opportunity, they blame the weather. Beware the batterer who presents himself as a victim; and I've yet to meet one who doesn't present as the victim of his partner's shortcomings, failings or provocation. There is no excuse. No justification. No "I was drunk". No "I had a bad day". No "My father beat me." There's no room for collusion here. We need to be crystal clear about their responsibility for their choice to use violence.

Thinking that alcohol or substance abuse causes domestic violence also leads to thinking that treatment for the chemical dependency will stop the violence. But battered women consistently report that when their partners begin to get "sober" the violence not only doesn't stop but often gets worse. And even when the level of physical violence does abate or stop, they often report a corresponding increase in the other forms of control - the threats, isolation, emotional abuse, and economic abuse intensify. Treating a batterer's substance abuse problem without addressing the violence is unlikely to stop the violence; and may even increase the victim's danger.

Another misunderstanding comes from attempting to explain why domestic violence gets worse over time. The "progression" of violence is likened to the progression of the disease of addiction, inviting the use of an addictions model for responding to the problem of battering. Use of an addictions framework assumes that just as an addict experiences loss of control over the substance, there is a point at which a batterer can no longer control his violence.

But batterers don't lose control of their violence. How would "loss of control" account for the fact that batterers overwhelmingly target their punches and their kicks to their partners' torso - parts of the body that are covered by clothing?

How would "loss of control" account for the fact that men who batter have personal limits beyond which they won't go? Whether the line is drawn at a closed fist, the use of a weapon, or drawing blood, batterers, almost without exception, have their own personal limit at any given point in time.

How would loss of control account for the fact that batterers who appear to be "uncontrollably drunk and out of control with rage" in the midst of perpetrating some physical assaults retain the remarkable ability to "sober up" and regain their composure when the police show up at the door?

Batterers aren't out of control. Quite the contrary; they are consummate controllers. Violence escalates over time for other reasons. Batterers may need to increase their partner's sense of danger and fear in order to continue to maintain control and prevent her from seeking help or leaving. And since batterers experience few, if any, negative consequences, once a batterer perpetrates a particular level of violence with impunity, he may find it easier to cross that threshold in the future.

The bottom line is that batterers who are also alcohol or other drug addicted need to address both problems separately and concurrently. Recovery may be a process that involves more than simply "putting down the drink", but substance abuse treatment, AA, NA, aren't enough to effectively address the attitudes and beliefs that are at the root of batterers' behavior. They weren't designed to address them. That's a job that belongs to all of us.

Until we challenge the attitudes and beliefs that support men's right and entitlement to control the

lives of women and children, until we impose consequences for men's choices to engage in intimate violence, until we actively reinforce 100% accountability upon batterers for their violence - unless we do that, we're going to have a heck of a time trying to get batterers to want to stop. As Ann Jones, the author of "Next time, she'll be dead", suggests: It's not enough to speak out against domestic violence, in our communities, we need as a community to act as if we believe it. To act as if we believe it. We must actively participate in holding men who batter 100% accountable for their violent behavior.

Accountability for battering men is necessary in the interests of victim safety. But it's also necessary in the interests of battering men. For alcohol or drug addicted battering men, we can't even help them get sober unless we address the battering. A man can beat his wife and be successfully abstaining. But a man can't beat his wife and be successfully in what we call "recovery". Furthermore, battering is a relapse issue for substance using batterers. If there's a connection for a man between raising his fist and raising a glass, it's a relapse issue. Intervention for the violence has to be integrated into the treatment plan because continued violence poses a direct threat to his sobriety. You can't help him get sober unless you're willing to do what it takes to directly address his violence.

Dealing with both problems means, minimally, conducting routine upfront assessments for domestic violence as part of the intake process and integrating attendance at a batterers intervention program into the treatment plan. Not that a man's participation in a BIP is necessarily an indication that he has made the decision to stop battering. Those who work with men who batter are humbled daily when faced with the actual limitations of their efforts. BIPs are not a panacea. They do not and, I would argue, can not solve the problem of men's violence in isolation of other community wide efforts.

Here, in New York State, we advocate the development of batterers programs in the context of a community wide coordination strategy. My agency is in the process of adopting standards for BIPs that uphold some basic principles. One - the priority concern of a responsible BIP should be victim safety. Anyone working with batterers must have a direct linkage to domestic violence programs and thus to battered and formerly battered women as a way to continually assess the impact of their work on the safety of victims in the community.

Two - BIPs should provide education and accountability, not therapy. While many batterers may be insecure, may have suffered childhood trauma, may be angry or stressed out, these things no more explain their choice to be intimately violent than does alcohol or other drug use. Batterers with issues of insecurity, childhood trauma, or substance abuse deserve help and we should help them get it. But at the root of battering behavior is the set of beliefs that supports men's choice to control their partners. That ought be the sole target of interventions designed to stop battering.

Three, batterers intervention programs must operate in the context of a coordinated criminal justice systems response to ensure that if an individual man doesn't use the information and the tools he receives in a BIP to make the internal decision to stop his violence, then we have an external system of control that we can mobilize to best ensure the safety of victims.

We also have a responsibility to inform battered women about the limitations of substance abuse treatment alone to solve the violence as well as the limitations of treatment in combination with Batterers intervention. She needs to understand that her partner's participation in treatment and batterers intervention is not a guarantee for her safety. We should encourage her to plan for her safety in the event that her partner rejects the assistance he is getting to choose sobriety and to choose non-violence.

Concerns about victim safety also arise in the context of service provision to chemically dependent battered women. Although the vast majority of battered women are not alcohol or other drug-involved, those who are confront a system that often attempts to solve the violence problem through the recovery process. Often, intakes to treatment programs do not include an assessment for adult domestic violence. Even when domestic violence is identified, it is often assumed that chemical dependency treatment must occur before the client can begin to address or make decisions about her victimization.

One of the concerns with the "sobriety first" approach is that it doesn't consider the increased risk of violence that a woman's recovery may precipitate. Batterers are typically very resistant to their partners' attempts to seek help of any kind, including substance abuse treatment. In response, they may sabotage the recovery process, and may respond with intensified violence, as I mentioned earlier. Many chemically dependent battered women leave treatment in response to the increased danger or are otherwise unable to comply with treatment demands because of the obstacles constructed by their partners. Many battered women are terminated from treatment because of the counselor's inability to see the role her victimization plays, instead taking her failure to comply with the treatment plan as evidence that she is "non-compliant", "resistant", not serious about getting sober. Even if a battered woman is able to complete a treatment program, being revictimized puts her at extremely high risk of relapse. So, not only may a battered woman's recovery precipitate increased violence, but continued violence may also precipitate relapse. Substance abuse recovery strategies that don't integrate safety planning are almost destined to fail.

Some battered women who participate in substance abuse treatment and are able to comply with the treatment plan often want to focus on the multiplicity of problems that are directly related to immediate and long-term safety, i.e. - legal protection, housing, medical problems, child care, child custody, lack of job skills, unemployment, etc. Here, too, treatment professionals sometimes misunderstand battered women's desire to focus on these issues as "resistance to treatment" or as a defense to avoid dealing with the addiction. But there's a big difference between survival strategies and safety needs on the one hand and resistance to treatment on the other. Successfully engaging and treating battered women with alcohol and other drug problems may rely upon our ability to discover that difference and to integrate their concrete safety needs into their treatment plan. That may mean being willing to let go of some of the rules that have governed addictions treatment for a long time. It's time we recognized and accepted that no one way works for everyone. It's long past time for us to listen to the women who are saying that it's not working for them and to offer them the help that they deserve.

Let me give you an example of how a little flexibility can go a long way. I ran into a substance abuse counselor recently who had attended a training I conducted last spring. The counselor, Ellen, is a very bright, very perceptive, very knowledgeable counselor who had been working almost exclusively with women for some ten years. She told me that she had a woman in treatment who had disclosed she was battered and was linked with domestic violence services but was still living with her partner. One week, the woman came in for her appointment and reported to Ellen that she had had a "slip". In the middle of an argument with her partner, he grabbed her by the hair, held her head back, forcing her mouth open and took an open beer and poured it down her throat. He was yelling stuff like, "You think you're so high and mighty, better than the rest of us 'cause you're all clean and sober. Well, you're just the same bitch you always were." He held the bottle up and told her to drink it. Drink it or "you might not live to regret it."

Ellen told me that her standard response would have been to tell her client, "Look. You and only you are responsible for your sobriety. You should have put on your walking shoes and gotten the hell out of there instead of taking that drink." But then she said she heard this nagging voice in the back of her head. She said, "I think it was your voice, Theresa." This nagging voice telling her to try a different tack. And she did. She said to her client, "Whoa. We've got a serious problem here. The danger your partner puts you in is interfering with your ability to stay sober. We need to figure out a way to make sure that never happens again. How can we keep you safe so we can keep you on the path to recovery?" Ellen said that she was used to losing a lot of clients like this woman, but that this woman was still in treatment and doing well.

You've heard the saying - "There's no such thing as a resistant client. Just resistant counselors?" The notion that battered women are particularly resistant clients is a myth. We've just been trying to sell them the wrong bill of goods, a bill of goods that has failed to make their safety a priority.

There is a second concern with applying the "sobriety first" approach to interventions with battered women. Many battered women report that they started to use substances as a way to cope with the physical and emotional pain of the abuse, and most typically after other attempts to seek help failed.

Frequently, these women report that they had sought help repeatedly from the traditional social service and legal systems but received inadequate or negative responses. In fact, many chemically dependent battered women are addicted to sedatives, tranquilizers, stimulants and hypnotics, drugs which were prescribed by the health care providers from whom they sought help. The "help" they got came in pill form, a pill which alleviated their symptoms but also often communicated a powerful message, a message that "there is something wrong with me".

Whether the relief they get comes from a pill, a glass, a needle, or a pipe, battered women often report that use of the substance helps to reduce their feelings of fear. Think of the "magic" in that drug. Fear can be an incredibly paralyzing emotion and battered women live in constant fear. If, as a battered woman, a drug can minimize my fear and help me manage and get by day to day, to get the kids off to school and keep the house and cook the dinners, that's "magic". These are the women who may be particularly resistant to fully engaging in a recovery process until they have some other way of mediating their fear, until they have achieved some level of genuine safety. The traditional treatment approach that says "until you are willing to put down the drink, I can't help you", poses a particular double bind for these women because, for them, giving up the drink means giving up some safety.

Now, think about it. If she's not willing to give up the drink and we're not willing to work with her until she does, we're at a serious impasse. And frankly, I think her reasons for hanging onto the drink or drug are way better than our reasons for hanging onto the notion that it has to be "sobriety first". With the exception of some women who are so debilitated by their addiction that they truly can't engage with us in any constructive way, it's a myth - a big lie - that women have to be sober in order to work on their safety.

Battered women who are active in an addiction do lots and lots of things every day to help keep themselves safe. Many of them are quite capable of filing for orders of protection and using those orders effectively. Many are quite capable of attending battered women's support groups and beginning to break down isolation, get information and build a support system. If they can manage to abstain long enough, they're even capable of residing in an emergency shelter and satisfying their immediate safety needs.

I'm not suggesting that we engage addicted battered women in safety planning and simply ignore the addiction. But if we're willing to start where she is and where she is is interested in focusing on her safety, then trust me, sooner or later her addiction is going to get in the way of her safety plans. And that's where we come in, stage left, and seize the opportunity to help her explore how her addiction is directly interfering with her safety plans, a process which may help to increase her motivation to get treatment for her addiction.

I worked with a woman who showed up high for her court date for an order of protection. Another woman who called the police on a violation of an order of protection, but when they arrived and discovered her drunk, refused to arrest her partner. A woman who missed her custody hearing because she was passed out. I worked with all these women. They hung onto their respective drugs of choice for dear life. But they wanted domestic violence services and we gave it to them even though they were completely unwilling to give up the drug. But, you know, over time, with our help, they began to experience increased safety and began to see, with a little help from us, how their safety goals were compromised because of their addiction - and they began to loosen their grip on the drug. Not all of the chemically dependent women I worked with got sober, but a lot more of them did.

Everybody always asks what you deal with first, the domestic violence or the chemical dependency. I don't think there's a good answer for that. Mostly because I think that safety and sobriety are joined at the hip. We can't help women get sober unless we also help them get safe. We can't help women get safe unless we help them get sober. Some women say that they had to get sober before they could do anything else.

Others say that they needed to work on their safety related concerns before they would even consider giving up their drug of choice. There isn't a particular chronology on which to base our interventions

other than what the woman in front of us tells us she is ready and able to do. The challenge is to be willing and able to fashion our interventions based on her individual needs.

So, starting with safety can further the goal of sobriety and vice verse. But only if we are well-equipped to attend to both problems. Only if we incorporate safety planning into our treatment planning and support for recovery into our safety interventions. Not by coercing women to do things they're not ready to do. But by continually being a source of information about the connection between safety and sobriety and working to help her figure out what's in her own best interests.

There are additional considerations regarding the impact of traditional treatment approaches on battered women's safety. Couples or family sessions tops that list and it is frequently requested by battered women because it's the one kind of help that their partner may agree to participate in. He tells her, "Okay, I'll get help. But you're coming with me," which, in effect, makes his change contingent upon her willingness to share responsibility for that change.

The premise of couples counseling is that both parties are a part of the problem and therefore both need to be part of the solution. It's precisely why batterers often agree to this kind of help. But domestic violence isn't a "relationship" issue. A batterer's violence is completely independent of his partner's likability, desirability, behavior or inadequacies. The message in couples counseling is that the victim is at least partly responsible for her partner's violence. And both the battered woman and the batterer get that message, reinforcing the batterer's externalization of blame on his partner, colluding with his desire to avoid accepting full responsibility for his behavior and contributing to a woman's internalization of blame.

In addition to clouding the issue of who is responsible for the violence, couples counseling places the battered woman in an impossible bind. Though she is expected to be open about her feelings, air her grievances, and report her husbands' violence, to do any of these things places her at very high risk for retaliation. Battered women commonly report that couples counseling sessions were followed by threats, intimidation and physical assaults. In response, battered women often begin to communicate their feelings and concerns in an indirect way, which then gets misinterpreted by couples counselors as noncompliance or noncooperation.

Coercion and violence create an imbalance of power between the batterer and victim that precludes the safe or effective use of mediation, couples or family sessions - whether the violence is the problem being addressed or not. The use of partners as collaterals or their participation in planned interventions are also practices common within the substance abuse treatment system, practices that put battered women at risk.

Treating domestic violence as a "family systems" problem is at best, based on faulty premises and subsequently ineffective. At worst, it is dangerous and life-threatening. Whatever the therapeutic benefit these interventions have for families not experiencing domestic violence, the collective voice of battered women who have had the misfortune to look to couples counseling for solutions and have suffered the consequences of that decision directly at the hands of their partners - their collective voice should be sufficient reason to refrain from engaging battered women in couples counseling, marriage counseling, mediation, collateral information gathering and planned interventions.

We also need to rethink the conventional wisdom of interventions for the partners of addicted battering men. The treatment system's intervention with female partners of alcoholics often includes recommendations to attend Al-Anon - an organization whose principles and practices have helped tens of thousands of people trying to cope with a loved one's addiction - but which, for battered women, encourage changes that may not enhance their safety. In Al-Anon, there is encouragement and support for members to get self- focused and practice emotional detachment from the substance abuser. Members are encouraged to stop "enabling" the addicted person, to stop doing things that protect him from the consequences of his addiction. While this may be a useful goal for family members of alcoholics who aren't living in coercion and fear, for battered women, such changes often put them at greater risk for violence.

Many battered women are very attuned to their partners' moods as a way to attempt to assess current danger. They may focus on their partners' needs and cover up for them as part of their survival strategy. Battered women's behaviors are not symptomatic of some underlying "dysfunction", but are instead the life-saving skills necessary to protect them and their children from future harm. These behaviors are also what, in the alcoholism field, are interpreted as "co-dependency". When we encourage a battered woman to give up these behaviors, to get "self-focused" and "detached" and to stop "enabling", we are, in essence, encouraging her to give up the very things that are helping her and her children be most safe.

Battered women do not have the same freedom to stop "enabling" their partners as do family members of substance abusers who are not living in coercion and fear. Such changes in battered women's behavior will almost certainly result in an escalation of violence. Battered women cannot "take their power back" from their partners by defining their boundaries and setting limits on behavior because they didn't give their power up in the first instance. Their power to negotiate was taken from them through their partners' use of coercion and violence.

Battered women whose partners are chemically dependent should be provided accurate and complete information about available resources so that they can make informed decisions and set realistic expectations about the potential benefits of these different sources of help. It is critical that they understand the purposes of Al-Anon and co-dependency groups and the limitations of these forums as sources of accurate information regarding safety-related concerns. They should also be advised of the availability of domestic violence programs and encouraged to connect with these services for assistance.

Improving responses to battered women who are also affected by alcohol and/or other drug problems requires honest and ongoing dialogue between the fields and increased coordination of services. This cooperation is sometimes hindered by the differences between the fields, i.e., use of the socio-political model vs. the medical model, individual intervention vs. a family systems approach. Think about our languages. One says, "empowerment" and the other says "I am powerless over". One says to women, "you are not responsible" and the other says "make a searching and fearless moral inventory and make amends". One says "safety first" and the other says "sobriety first". One says "you are a survivor; your behaviors are normal for someone who is reacting to coercion and fear". The other says "you are co-dependent". One says "you are not sick; society is sick" and the other says "you are sick; you have a disease". If you think it confuses us, imagine the effect on women involved in both domestic violence services and recovery services.

Some of these language differences are frequently misinterpreted and misunderstood, and can perhaps be resolved through increased knowledge and clarification of their meanings. But in other cases the disparate languages reflect analyses which are qualitatively different. These are, after all, different problems. And these differences, if not acknowledged and reconciled, can and do get in the way of cooperation between our fields.

Meeting the needs of battered women who are affected by substance abuse requires an open and effective working relationship between the substance abuse and domestic violence communities. It is our mutual responsibility to ensure that our respective responses promote victim safety, offender accountability, and recovery from addictions. It's our mutual responsibility to better help women affected by both problems to get both safe and sober.

I applaud the organizing agencies for planning this conference and all of you for your participation and I'm truly pleased to be here among you. I applaud you for taking the time out of busy and demanding schedules to come here and by your presence to demonstrate your concern about domestic violence and about substance abuse in your community. But the real challenge lies ahead of us. It's just not enough to say it, to think it and to feel it. The real challenge and the challenge that is before us all, is to act as if we believe it.

Go back to The Alcohol Connection

Rohypnol and GHB: Just the Facts

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▶ *Links to Online Sources*

Often found at night clubs and rave parties, Rohypnol (flunitrazepam) and GHB (gamma-hydroxybutyrate) are two strong sedatives that are abused by teenagers, night club attendees, and individuals intent on sexual assault. Often consumed or taken with alcohol to increase the drug's effects, the combination of alcohol and either Rohypnol or GHB has caused death. When abused, both drugs can cause addiction and dependence with severe withdrawal symptoms.

What is Rohypnol?

Rohypnol (flunitrazepam) is a strong sedative which is manufactured and distributed by Hoffman-La Roche. A member of the benzodiazepine family which includes drugs such as Librium, Xanax, and Valium, Rohypnol is about ten times the strength of Valium. Although Rohypnol is used as a presurgical anesthetic or for the treatment of insomnia in many countries, the drug has never been approved for medical use in the United States because other safer drugs are available. Typically, Rohypnol is smuggled into Texas from the Mexican pharmacias; supplies in Florida come from Latin America. Street prices in Texas range from $1 to $5 per pill. Slang terms for Rohypnol include Roach, Roche (ro-shay), Roofies, Run-Trip-and-Fall, R-2, Mexican Valium, Ropynol, Rib, and Rope. In South Texas, to be under the influence of Rohypnol is "to get roached."

How is Rohypnol used?

Rohypnol is manufactured as small, white tablets with "Roche" inscribed on one side with an encircled "1" or "2" indicating a 1 mg or 2 mg dose. These tablet markings are commonly found on other Roche pharamaceuticals, and a pattern of abusing any drug made by Roche (Valium, Klonopin/Clonopin, Rivotril) has developed. Rohypnol is usually taken orally, although there are reports that it has been ground up and snorted.

What are Rohypnol's effects?

After taking Rohypnol, the user may feel intoxicated, then sleepy — a feeling that may last up to eight hours. Users under the influence may exhibit slurred speech, impaired judgment, and difficulty walking. Rohypnol can cause deep sedation, respiratory distress, blackouts that can last up to 24 hours, and amnesia where users forget events experienced while under the influence. In some cases, the drug has paradoxical effects and causes users to become aggressive. The potential for overdose or death can occur, especially when mixed with other drugs like alcohol.

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How long does Rohypnol stay in the user's body?

Rohypnol can be detected in the blood several hours after ingestion, and a metabolite of flunitrazepam called 7-aminoflunitrazepam can be detected in the urine for upwards of 48 to 72 hours after taking the drug.

What is GHB?

GHB (gamma-hydroxybutyrate) was once sold in health food stores as a performance enhancing additive to body builder formulas. Although rumored that GHB stimulates muscle growth, this claim has never been proven. GHB is a central nervous system depressant that is abused for its intoxicating effects. In 1990, the FDA banned the used of GHB except under the supervision of a physician because of many reports of severe, uncontrollable side effects.

How is GHB used?

GHB is consumed orally in capsule form or as a grainy, white to sandy-colored powder. Powdered GHB is often dissolved in liquids like water or alcoholic beverages and then consumed. However, it is most frequently sold as a slightly salty, clear liquid in small bottles where users pay by the capful or by the teaspoon. Often substituted for Ecstasy, another club drug, a capful may cost the user $3 to $5 per dose. GHB is also used as a sedative to come down off stimulants like ephedrine, Ecstasy, speed, or cocaine. Slang terms for GHB include Grievous Bodily Harm, Easy Lay, Gook, Gamma 10, Liquid X, Liquid E, Liquid G, Georgia Home Boy, Soap, Scoop, Salty Water, Somatomax, G-riffick, Cherry Meth, Fantasy, Organic Quaalude, Nature's Quaalude, and Zonked.

How much GHB is too much?

Doses between 10 and 20 mg produce painkilling or analgesic effects plus amnesia. Doses higher than 50 mg can result in general anesthesia with respiratory depression and coma. Most GHB is created in clandestine laboratories where purity and quality cannot be guaranteed. Therefore, users are not able to tell the dosage levels in the GHB they obtain resulting in overdoses. Another cause for concern is the toxic chemicals used in the synthesis of GHB which may cause chemical burns to the esophagus, mouth, and throat.

What are GHB's effects?

GHB produces intoxication followed by deep sedation. Once ingested, the drug will begin to take effect in 15 minutes to an hour, lasting one to three hours. GHB can cause nausea, vomiting, delusions, depression, vertigo, visual disturbances, seizures, respiratory distress, loss of consciousness, amnesia, and coma. When combined with alcohol and other drugs, the potential for deadly overdoses escalates rapidly. Numerous overdoses in Texas and nationwide have required emergency room treatment and mechanical assistance to breathe.

How long does GHB stay in the user's body?

GHB can be detected in the urine only up to 12 hours after ingestion. Metabo-

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▶ *Links to Online Sources*

lized rather quickly, the largest amount of the drug is excreted two to four hours after ingestion.

Why are Rohypnol and GHB called "sexual assault" drugs?

Rohypnol and GHB have been called "sexual assault" drugs because of their potential to cause blackouts and amnesia at high doses. In the past decade, cases of sexual assault and gang rape where victims were sedated by Rohypnol or GHB have been reported across Texas. The drugs have been reportedly used at gang initiation rites. In response to the abuse of Rohypnol and GHB, the Drug-Induced Rape Prevention and Punishment Act of 1996 was enacted into federal law. This law makes it a crime to give someone a controlled substance without a person's knowledge and with intent to commit a violent crime. The law also stiffens the penalties for the possession and distribution of Rohypnol and GHB.

How can you protect yourself from exposure to Rohypnol and GHB?

Although most users of Rohypnol and GHB use the drugs for the intoxicating effects, some individuals with the intent of sexual assault use the drugs to incapacitate women and men. The most common method used to drug someone has been to slip it into a drink at a bar, night club, rave, or party. Consequently, it is best if attending such events to go with friends who will watch out for each other. Remember to always watch your drink being poured, and never leave your drink unattended. If Rohypnol or GHB is added to your drink without your knowledge, your drink will neither look nor taste out of the ordinary. If you should start to feel "out of it" or "woozy," tell someone you trust. A designated driver in your group will ensure that everyone gets home safely.

What should I do if I think I may have been exposed to Rohypnol or GHB without my knowledge?

If you believe that you may have been assaulted, contact a rape crisis center or hospital emergency department immediately, and go there as soon as possible. Be certain to tell them if you suspect that you may have been drugged so they will preserve the evidence and all of your legal options for the future. Furthermore, it is important to get medical attention because of the threat of sexually transmitted diseases, HIV infection, and pregnancy. For more information, contact the Texas Association Against Sexual Assault at (512) 474-8161 for a referral in your neighborhood or check your phone book for other resources.

What can ravers, young adults, and others do?

If you attend rave parties and night clubs, be aware that there is a segment of users who use Rohypnol or GHB to not only incapacitate women for the purposes of sexual assault but also to target men and women for other criminal acts such as robbery. If you see someone attempt to spike a drink, report them immediately. Allowing someone to use alcohol or other drugs for incapacitating a person could make you a conspirator in a very serious crime.

▶ *Where to Find Help*

▶ *Links to Online Sources*

Who should I contact if someone close to me has a problem with Rohypnol or GHB?

Contact the Texas Commission on Alcohol and Drug Abuse's toll-free hotline at (800) 832-9623 or your local Council on Alcohol and Drug Abuse for referral assistance. You may also contact your family physician, hospital, or yellow pages for other intervention and treatment options.

For more information, contact the following sources:

- Your region's TCADA Prevention Resource Center. Dial toll-free (888) PRC-TEXX to be connected to the center nearest you.
- Your local Council on Drug and Alcohol Abuse.
- Your local public library.
- Other sources can be found in the yellow and blue pages of your phone book under "Drug Abuse."

Access reliable information instantly from the Internet from the following sites:

- The National Clearinghouse for Alcohol and Drug Information's home page has information on Rohypnol, GHB, and other substances of abuse. <http://www.health.org>
- The National Institute on Drug Abuse has national statistics and the latest research findings available. <http://www.nida.nih.gov>
- The Partnership for a Drug-Free America has a drug database to help parents identify specific drugs, their effects, and drug paraphernalia. <http://www.drugfreeamerica.org>

Texas Commission on Alcohol and Drug Abuse
9001 N. IH-35, Suite 105
Austin, Texas 78753-5233
(512) 349-6600 ◆ (800) 832-9623
http://www.tcada.state.tx.us

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Sexual Assault Crisis Centers

PHONE LINES OPEN 24 HOURS

WEST
Everywoman's Ctr.
888-337-0800
(Hampshire Co.)

NELCWIT
413-772-0806
(Franklin Co.)

Eliz. Freeman Ctr
413-443-0089
(Berkshire Co.)

YWCA
413-733-7100
(Hamden Co.)

CENTRAL
RCC of Central MA
800-870-5905
(Worcester Co).

WPS
508-626-8686
(Framingham area)

Wayside
800-511-5070
(Assabet/Blackstone)

NORTHEAST
RCS Lowell
800-542-5212
(Lowell area)

WRC
800-400-4700
(Lawrence area)

North Shore RCC
800-922-8772
(North Shore)

SOUTHEAST
NB Women's Ctr.
508-999-6636
(New Bedford area)

New Hope
800-323-4673
(Norfolk/Bristol Co)

Womansplace
508-588-8255
(Plymouth Co)

MSPCC SURVIVOR ASSISTANCE FALL RIVER
877-301-HELP (4357)

Independence House
800-439-6507
(Cape Cod)

A Safe Place
508-228-2111
(Nantucket)

WSS/MVCS
508-696-SAFE
(Martha's Vineyard)

MSPCC SURVIVOR ASSISTANCE JAMAICA PLAIN
877-627-7700

BARCC
617-492-RAPE
(Rt 128/Boston)

LINEA DIRECTA EN ESPANOL
1-800-223-5001

HOW COULD THESE DRINKS BE EQUALLY DANGEROUS?

They all contain a tasteless drug that could make it easier for someone to rape you or your friends.

- Always keep your beverage in sight.
- At bars or clubs, accept drinks only from the bartender or server.
- At social gatherings, do not accept open container drinks from anyone.
- Remember that you don't have to stay in a situation which feels unsafe, and you shouldn't have to apologize for trying to stay safe.
- Watch out for friends. Anyone can be at risk for drug-related rape. Talk and learn more about sexual assault issues.
- If you or your friends experience dizziness, extreme drowsiness, or other sudden, unexplained symptoms, have someone you trust help get you to the nearest emergency care facility immediately. Do not drive yourself. Try to keep a sample of the beverage for testing.
- Be alert to the behavior of friends. Remind them that sexual assault is no joke and that no one ever "deserves" or "asks for" it. Using drugs to trick someone into sex is criminal sexual assault which hurts everyone in the community.
- There are tests to help prove you've been drugged. State and federal laws can put the perpetrator in prison.

We all have the power to take action. If you are in danger, dial 911.

If you think you've been sexually assaulted, free support services are available through your local sexual assault crisis center (listed on left). Please also seek medical attention as soon as possible. To report an assault, call your local police.

To report that someone has these drugs, call the DRUG TIP LINE at 1-888-766-3437.

THIS MESSAGE IS PROVIDED BY GOVERNOR ARGEO PAUL CELLUCCI, THE MASSACHUSETTS DEPARTMENT OF PUBLIC HEALTH, AND THE EXECUTIVE OFFICE OF PUBLIC SAFETY

SEXUAL ASSAULT REPORT™
LAW : PREVENTION : PROTECTION : ENFORCEMENT : TREATMENT : HEALTH
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Rohypnol and GHB: Terrifying Date-Rape Drugs

by Joan Zorza

Reading the social science literature on sexual assault and rape one might never know that the drugs Rohypnol and GHB exist, or that other date-rape drugs exist. Similarly, one would probably not know, except for seeing an occasional newspaper story or reports following legislation, that these drugs are a rapist's dream, enabling a rapist to overcome an intended victim's physical resistance and to discredit the victim's credibility as a witness against the rapist. Also, these drugs almost surely impede a rape survivor's recovery, though probably no studies have documented this. Likewise, little is written about how police, prosecutors and rape treatment centers should deal with the important evidentiary issues that arise when a victim has been administered Rohypnol, GHB or other date-rape drugs, or how to test for these drugs.

A check of law review articles shows only two about Rohypnol and none about GHB. One of these articles (Douglas Herring, "Getting High from South of the Border: Illicit Smuggling of Rohypnol as an Example of the Need to Modify U.S. Response to International Drug Smuggling After NAFTA," 18 Loy. L.A. Int'l & Comp. L. J. 841 (1996)), as its title suggests, is mainly about international drug smuggling, although it does mention use of the drug for date-rape purposes. The second article ("The Date Rape Drug: The Difficulty of Obtaining Convictions," 31 APR Prosecutor 28 (1997)) is a short article alerting prosecutors to the headaches Rohypnol is causing in sexual assault cases "because it leaves few traces and the victims usually don't remember what happened to them." Neither article cites to any reported cases about date rape.

Date-Rape Cases Involving GHB or Rohypnol

Indeed, a search found only two reported date-rape cases involving these drugs, one clearly about GHB and the other presumably concerning Rohypnol. Neither case is characterized as a rape case, although that is presumably why the drugs were administered. In **Commonwealth v. Stilley**, 689 A.2d 242 (Pa. Super. 1997), the defendant appealed his conviction and five year probation sentence for simple assault, terroristic threats, false imprisonment and criminal mischief after administering GHB to his former girlfriend. She "became ill, drowsy and ultimately unconscious from the liquid" he forced her to drink after locking her in his office, resulting in her subsequently having to be taken to the hospital. She evidently had won a civil case against him prior to his criminal conviction. He unsuccessfully challenged the conviction on many procedural grounds, including whether he was given a

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speedy trial, deprived of his right to a public trial, or deprived of effective assistance of counsel—his attorney failed to explore if either testifying expert physician was qualified to diagnose the overdose of GHB and failed to call one witness concerning the testing of the physical evidence.

The defendant in **Gorman v. Grand Casino of Louisiana, Inc.-Coushatta**, 1 F.Supp. 2d 656 (1998), tried unsuccessfully to throw out a personal injury suit filed in Texas based on whether Texas had jurisdiction over the casino. The plaintiff customer at the casino alleged that a security guard of the casino administered a date rape pill to her and "made several advances," although her "complaint does not state whether or not sexual assault allegedly occurred."

Rapists Are Aware of Date-Rape Drugs

Although little appears in the literature or case law, it is clear that far too many rapists know about and have access to these very dangerous date-rape drugs, and many of them are administering these drugs to their intended victims, particularly to women they know. Potentially this could impact many women, since about one in four women in America are raped during their lifetimes, and about three of four rapes in America are perpetrated by men who know their partners. While most known and suspected victims of these date-rape drugs are women, Rohypnol and GHB could also be effectively used against male and child victims.

What Is Rohypnol?

Rohypnol has never been legal to possess or manufacture in the United States. Simple possession of the drug in the United States is punishable by up to three years in prison as well as a fine. Under federal law, administering Rohypnol to another person without his or her knowledge and with intent to commit a crime of violence (including rape) is punishable by up to 20 years in prison and a fine. Distributing or importing one gram or more of Rohypnol is also punishable by up to 20 years in prison. In addition, a number of states (e.g., Idaho, Minnesota, New Mexico, North Dakota, Oklahoma and Pennsylvania) have placed Rohypnol under Schedule I control (even stiffer than under federal law), subjecting those possessing or distributing Rohypnol to state penalties as well.

Rohypnol can, however, be legally prescribed in 80 other countries where its use is recommended for the short-term treatment of severe sleep disorders. In fact, it is the most prescribed prescription sedative used in Europe. Since the late 1970's abuse of Rohypnol has been reported in Europe, and more recently throughout the world. Rohypnol cannot be prescribed or legally sold in Canada, although it can be imported in limited amounts for personal use when prescribed by a foreign physician.

Rohypnol is the trade name for the central nervous system depressant drug, Flunitrazepam, a medication seven to ten times stronger than Valium and four to eight times stronger than Halcion, another drug from the benzodiazepine family (Xanax is another fairly well known member). It is legally manufactured in Mexico and several other countries by the Swiss owned drug company, Hoffman-LaRoche, Inc., for sale outside of the United States. Because of Mexico's proximity to the United States and the ease in purchasing the drug over the counter in that country, virtually all of the supply that enters the United States comes through Mexico, primarily through Florida and Texas.

Effects of Rohypnol. About 30 minutes after ingesting Rohypnol and, depending on the amount, for approximately the next eight hours, the drug causes muscle relaxation, slowing of psychomotor performance, lowered blood pressure, sleepiness, and often amnesia. "Some of the side effects" include "drowsiness, headaches, memory impairment, dizziness, nightmares, and tremors," according to an Office of National Drug Control Policy Fact Sheet on Rohypnol (available by calling 1-800-666-3332). Long-term use often leads to physical dependence and the need for medically supervised withdrawal. Consumption of both Rohypnol and alcohol or other drugs can be deadly.

Rohypnol makes people ingesting it so weak or incapacitated or even unconscious

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Sexual Assault Report™

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that they are unable to resist a rapist or call out for help. They commonly experience difficulty in moving their arms or legs and their thinking is likely to be confused and impaired, with the result that they may appear to be drunk. Not only does Rohypnol slur a person's speech and make it difficult for the individual to walk, but the drug may impair the person's judgment or make the person less inhibited. Because of the drug's amnesia effects, a rape victim may be unable to remember what happened or who did it, and thus may be unable to identify the rapist or to even know she was sexually assaulted. Consequently, the victim may never call the police or rape crisis center or seek medical care. Also, any witness is likely to assume that the victim was drunk or consented to the attack since no protest or resistance is likely to have been observed. Rapists also like this drug because it is (at least until recently) tasteless, odorless and colorless, and easily dissolved in any liquid, so that it will not be detected, and the drug's fast-acting effects begin within minutes and last for many hours, typically peaking about two hours after ingestion.

Rohypnol's Use by Drug Users. Rohypnol is sometimes taken alone, and can be taken orally, snorted or injected. Drug users often take it with alcohol or marijuana to enhance their effects and use it to ease withdrawal symptoms of heroin, crack or cocaine. The drug usually costs less than $5 per tablet, making it affordable to those who abuse drugs. Although Hoffman-LaRoche sells it as a tablet in bubble packaging with a foil backing (making it look attractive and safe, as if it is legal medication), it is sometimes ground into a powder and on rare occasions may even be available in a liquid form. It is mainly used by younger people, who are often unaware of how dangerous it can be. The number of young people taking it have increased dramatically; in South Florida, the drug's main port of entry into the United States, it is estimated that the number of children who will take Rohypnol may soon equal the number who use marijuana.

Street Names for Rohypnol. On the street Rohypnol is known by many names, including: circles, date-rape drug, dulcitas, forget me drug, forget pill, la rocha, lunch money drug (because of its low price), Mexican valium, mind erasers, minuses or negatives (referring to the 1 mg. tablet's markings) or pluses (the 2 mg. tablet's markings), pappas or potatoes (referring to the taker's mental capacity while under the influence), pingus, poor man's quaalude, R-2, reynolds, rib, ro, roachies, roapies, robutal, rochas dos, roche, roofies, rope, rophies, rophy, ropies, roples, row-shay, ruvies, ruffles, trip-and-fall, or wolfies.

Rohypnol Tablets Now Colored. In response to the widespread misuse of Rohypnol, Hoffman-LaRoche recently added coloring to the tablets so that they will be more likely to be detected in clear fluids, and reformulated the tablets so that they will not dissolve as quickly in liquids. The drug manufacturing company is seeking approval for this new reformulation in the 80 countries where Rohypnol is legally marketed. The ONDCP Fact Sheet on Rohypnol notes that the new reformulated green colored Rohypnol "tablets can be detected in clear fluids and are visible in the bottom of a cup. Spiking a drink will prove more difficult, because the tablets will dissolve slowly."

GHB is likely to have a greater range of effects when taken at night, particularly in the winter, than when taken during daylight.

GHB, Another Common Date-Rape Drug

Another drug affecting the central nervous system that is popular with rapists is Gamma-hydroxybutyrate, or GHB. While GHB has been tested in the United States for possible medical usage, it has never been approved for any such use. The claim that the drug enhances body building has never been clinically confirmed; while it can promote the secretion of growth hormones from the pituitary glands of healthy people, it has never been shown to promote the growth of muscles. The drug is very easy to concoct by heating a pot of gamma butyrol lactone (a common industrial solvent) and adding sodium hydroxide and possibly acetone, ingredients readily available at most hardware stores and chemical supply houses.

Street Names for GHB. Other names for GHB include: bedtime scoop, cherry meth, easy lay, energy drink (to explain its saltiness), ever clear, G, gamma, Georgia home boy, G-juice, great hormones, grievous bodily harm (GBH), liquid E, liquid ecstasy, liquid sex, liquid soap, max (when dissolved in water and mixed with amphetamines), natural sleep 500, salt water, soap, sodium oxybate, scoop, somatomax PM, super-G, and water.

In addition to possible federal penalties for the unlawful, interstate transportation of GHB or its individual ingredients for purpose of sale or manufacture, at least nine states have labeled GHB a controlled substance and impose additional penalties. Georgia, Hawaii, Illinois, Louisiana and Rhode Island classify it Schedule I; California and Florida, Schedule II; and Alaska and Tennessee, Schedule III. New Jersey has made it illegal to manufacture, possess or sell GHB, and other states are considering tougher laws and higher penalties. States without specific laws can punish the intrastate sale or possession because it is a "misbranded drug."

Effects of GHB. GHB acts even faster than Rohypnol, its effects typically beginning 5-15 minutes after ingesting a dose, which is typically 1-2 teaspoons. Like Rohypnol, it can cause confusion, intense sleepiness, unconsciousness, dizziness, weakness, and memory loss. It can also cause nausea, vomiting, problems focusing the eyes, suppression of the gag reflex, hallucinations, uncontrollable twitching or tremors, seizures, heart and respiratory depression and coma, often requiring hospitalization. If its pH is too high (a fairly common result of home manufacture), GHB can also cause acid burns to the face, skin, and internal surfaces of anyone touching or ingesting the drug. When taken with alcohol or other drugs, the result can be fatal. Complicating the effects is the fact that most available GHB is concocted illegally by non-drug manufacturers, often with dangerous solvents and caustic soda mixed in, so that overdoses are all too common. The drowsiness and weakness can last for up to three days, and the confusion for several weeks. Most symptoms last three to six hours. The body's melatonin levels affect the drug's results, such that GHB is likely to have a greater range of effects when taken at night, particularly in the winter, than when taken during daylight.

Although GHB appears to depress the central nervous system, recent information from the Assistant State Attorney Robert Nichols of the Broward County (FL) State Attorney's Office suggests that it may actu-

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ally over-excite it by stimulating the taker's brain waives. even into seizure mode. It also has a tendency to exaggerate the feeling of intoxication, possibly causing the victim to feel enhanced sexual desire. Such feelings, especially when they cause a victim to initiate or willingly participate in sexual activity, are almost certain to make the victim feel more guilty, depressed, and culpable. Curiously, the seriousness of the drug's effects are quickly forgotten, making drug abusers, those administering it, and possibly even takers somewhat oblivious to the drug's danger, thus increasing the risk for continued use.

Some of GHB's withdrawal symptoms include tremors, agitation, paranoia, hallucinations, fevers, delirium, and seizures. The drug can be psychologically addictive and has also caused a number of deaths. The drug is made even more dangerous by the fact that a large dose is needed to obtain the "desired" date-rape effects, though a relatively small increase in dosage can result in severe damage or even death.

How GHB Is Administered. Most GHB is sold as a clear or syrupy liquid, although it is sometimes produced as a white powder that looks like white laundry flakes. If in liquid form, a rapist can carry GHB in an eye or nose-dropper bottle, and then administer a few squirts into the unwatched glass of an intended victim. Drinks laced with GHB can sometimes be detected because they often have an unpleasant, plastic, salty taste and even a mild odor. However, it is not uncommon to mask the flavor and smell by adding the drug to a sweet liqueur or fruit juice.

Prosecution Considerations

Testing for Rohypnol and GHB. Rohypnol remains in the blood for only two to four hours after ingestion, but can be detected in urine for up to 72 hours, making blood a far less reliable medium for testing. Hoffman-LaRoche will test for the drug at no cost for law enforcement agencies, rape treatment centers and health care providers. (Roche can be called 24 hours a day at 1-800-608-6540 for testing information.) GHB remains in the blood for only four hours, and in the urine for at most 12 hours. Freezing or at least refrigerating the samples will preserve them better for testing. Victims who have been administered the most heavy doses of date-rape drugs are far less likely to be able to seek medical or law enforcement attention in time to test positive, since the symptoms may last for several days, and a severe hangover may follow.

Recently, hair has been successfully used to test for Rohypnol, although the first subjects tested were long-time abusers, who presumably have taken the drug in far greater concentrations. One advantage of hair testing is that it can be done long after the substance has disappeared from the blood and urine. For a date rape victim, who presumably has only taken the drug once, detection will probably be more difficult.

[A]ny witness is likely to assume that the victim was drunk or consented to the attack since no protest or resistance is likely to have been observed.

Other Evidence of Drug's Use. It is not uncommon to find the bubble packs or other evidence of the drugs or their manufacture at the location of the scene of the crime or at the suspect's home. Bubble packs should be checked for the suspect's fingerprints, or for evidence of co-conspirators. Small containers that may have carried the drugs should be checked for residual amount of the substance. Similarly, evidence may show that the suspect used his computer for obtaining information about Rohypnol or GHB. Because it is not uncommon for drug-rapists to video or photograph their victims, such evidence or film receipts may implicate the suspect.

Douglas Herring, in his law review article mentioned above, notes that because Rohypnol has never been legal in the United States, law enforcement officers are unable to identify it from drug pictures in the Physician's Desk Reference or other drug identification materials, their main source for identifying packaged medicines. Herring, *supra*, at 852.

Charging the Drug-Rapist. Drug-rape crimes may be prosecuted at any of the following crime sites, some of which may be the same: (1) where the drug was manufactured; (2) where the victim was drugged; and (3) where the victim was raped or assaulted.

Possible crimes that can be charged when Rohypnol or GHB is used in connection with sexual assaults include: sexual assault or rape, sexual assault of a mentally or physically incapacitated person, possession and delivery of a controlled substance, aggravated battery, and kidnapping. Additional charges may be appropriate when the victim is a minor. Because the administering of illegal drugs indicates premeditation, conspiracy crimes could also be charged, even if sexual assault does not happen.

Use of Toxicologist Expert. A qualified toxicologist is probably needed to educate the jury about the effects of Rohypnol or GHB and to explain away apparent weaknesses in the case. The victim may have "voluntarily" consumed the drug or "consented" to sexual acts while under the influence. Unless the victim knew what was being administered and was aware of its effects, any apparent consent was not knowingly and freely given.

Date-Rape Drug Pamphlet

The Rape Treatment Center, Santa Monica-UCLA Medical Center, released a series of well designed, informative brochures, posters and other materials, which can be used by rape crisis centers or campus programs to alert people to the dangers of Rohypnol, GHB and other "rape drugs." Contact the Center for their catalogue or a sample copy of their excellent brochure, "Rapists are Using a New Weapon to Overpower Their Victims." This brochure includes an invaluable tear-off section containing such useful information as how to tell if you have been drugged, what to do if you have been, and how to protect your friends. The pamphlet wisely suggests that you not drink beverages that you did not personally open (e.g., drinks that have been passed around or poured from a punch bowl), that you left unattended, or that taste or look unusual (e.g., have a salty taste, excessive foam or strange residue or color). If you suspect you are being drugged, try to get help immediately by asking a friend for assistance, calling the police or getting medical help. Likewise, if a friend appears intoxicated, sick, passes out, has trouble breathing, or is otherwise acting strangely, call 911 for medical help. At a hospital emergency room, make them take a urine sample for testing at the state's crime lab (if they are able to test for date-rape drugs) or through Roche. Preserve all physical evidence possible by not: urinating, showering, bathing, douching, or throwing away or laundering the clothes you were wearing during the incident. Save the drink or glass that held the drink if possible. And call a rape crisis center for information and support.

Joan Zorza is the editor of SAR and also Domestic

Appendices

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Map of Workshop Locations

The Massachusetts Victim Bill of Rights

The Massachusetts Victim Bill of Rights provides the following rights to crime victims in order to ensure victims a meaningful role in the criminal justice system:

The Right to Information on the Criminal Justice System:

- You have the right to be informed of how a criminal case progresses through the system, what your role is in the process, what will be expected of you, and why.
- You have the right to be informed of rights and services for victims in the court process.
- You have the right to assistance in applying for social services, financial assistance and certification to receive information about an offender.

The Right to Information on the Criminal Case Involving You:

- Upon request, you have the right to be updated on significant developments in the case.
- You have the right to be notified in a timely manner of any changes in schedule for court appearances for which you have been ordered to appear.
- You have the right to be notified of the final disposition of the case, including an explanation of the type of sentence imposed and a copy of the conditions of probation, if any.
- You have the right to be notified by the supervising probation officer whenever an offender seeks to change a restitution order.

The Right to be Heard and Present at Court Proceedings:

- You and your family members have the right to present a Victim Impact Statement to the court about the physical, emotional and financial effects of the crime on you and about your opinion regarding the sentence to be imposed.
- You have the right to submit your Victim Impact Statement to the Parole Board as part of its records on the offender.
- You have the right to be heard at any other time deemed appropriate by the judge.

The Right to Confer at Key Stages in the Court Process:

- You have the right to confer with the prosecutor before the start of the case, before a case is dismissed, and before a sentence recommendation is made.
- You have the right to confer with the prosecutor whenever a defense motion is made to obtain your psychiatric records or other confidential information.
- You have the right to confer with the probation officer about the impact of the crime on you before the officer files a full pre-sentence report on the offender with the court.

The Right to Financial Assistance:

- You may be eligible to apply for Victim Compensation for certain out-of-pocket expenses, such as medical, counseling or funeral costs, or lost wages incurred as a direct result of the crime.
- You have the right to a witness fee for each day that you are required to be in court.
- You have the right to request that the judge order the offender to pay restitution for your crime-related losses, and to receive a copy of the offender's schedule of restitution payments.
- You may be able to pursue a civil lawsuit for damages caused as a result of the crime by consulting a private attorney.

The Right to be Notified of an Offender's Release:

- Upon request, you have the right to advance notification whenever the offender is moved to a less secure correction facility.
- Upon request, you have the right to advance notification whenever the offender receives a temporary, provisional or final release from custody.
- You have the right to be informed by the Parole Board of the offender's parole eligibility.
- You may be eligible to get additional information about the offender, such as a criminal record or the offender's compliance with the terms of a sentence.

The Right to Other Protections in the Criminal Justice System:

- You have the right to request confidentiality for yourself and family members during the court proceedings for personal information, including home address, telephone number, school and place of employment.
- You have the right to protection by law enforcement from harm or threats of harm as a result of you cooperation with the court process.
- You have the right to a safe waiting area which is separate from the defendant and the defendant's family during court proceedings.
- You have the right to a prompt disposition of the case involving you.
- You have the right to request employer and creditor intercession by the prosecutor's office if the crime or your involvement in the court process causes problems with an employer or in meeting financial obligations.
- You have the right to have any property seized as evidence returned to you as soon as possible once it is no longer needed for law enforcement purposes.
- You, as a homicide survivor, have the right to possess in the courtroom an 8x10 or smaller photograph of the victim so long as it is not displayed.

Victim Witness Assistance Programs are available in each District Attorney's Office, the Attorney General's Office and the U.S. Attorney's Office to help victims cope with the aftermath of crime and the criminal justice process. The Massachusetts Office for Victim Assistance is also a source of information and referrals for crime victims and their families and supporters.

Services available under the Victim Bill of Rights are provided to the greatest extent possible, but are subject to and depend on public funding and available resources. Victims who were physically injured or were threatened with physical injury during a crime are given priority status for services. If you wish to be notified of the status of a pending criminal case, you should provide the prosecutors office with a current address and phone number where you can be reached.

This information is now available in brochures in English, Spanish and French, Haitian Creole and Khmer, Contact the Massachusetts Office for Victim Assistance for copies. *The Victim Bill of Rights is set forth in state law in Chapter 258B of the Massachusetts General Laws.*

April 1998

1999 Mass. State Legislature Directory

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Harkins, Lida (D-Needham)	234	2263
Hart, John (D-South Boston)	472	2120
Hill, Bradford (R-Ipswich)	443	2460
Hodgkins, Christopher (D-Lee)	542B	2637
Honan, Kevin (D-Brighton)	185	2947
Hyland, Barbara (R-Foxborough)	541B	2976
Hynes, Frank (D-Marshfield)	489	2017
Jehlen, Patricia (D-Somerville)	275	2676
Jones, Bradley (R-North Reading)	124	2100
Kafka, Louis (D-Sharon)	237	2305
Kaprielian, Rachel (D-Watertown)	33	2060
Kaufman, Jay (D-Lexington)	489	2017
Keenan, Daniel (D-Blandford)	236	2430
Kelly, Shaun (R-Dalton)	473B	2230
Kennedy, Thomas (D-Brockton)	277	2012
Khan, Kay (D-Newton)	22	2140
Knuutilla, Brian (D-Gardner)	443	2460
Koczera, Robert (D-New Bedford)	38	2470
Koutoujian, Peter (D-Newton)	166	2900
Kujawski, Paul (D-Webster)	167	2692
Kulik, Stephen (D-Worthington)	167	2692

		(617) 722-
Lane, Harold M. Jr. (D-Holden)	473G	2070
Larkin, Peter (D-Pittsfield)	43	2030
LeDuc, Stephen (D-Marlboro)	38	2470
Lepper, John (R-Attleboro)	548	2803
Lewis, Maryanne (D-Dedham)	171	2783
Locke, John (R-Wellesley)	136	2396
Malia, Liz (D-Jamaica Plain)	540	2090
Mariano, Ronald (D-Quincy)	254	2220
Marini, Francis (R-Hanson)	124	2100
Marzilli, Jim (D-Arlington)	443	2460
McGee, Thomas (D-Lynn)	39	2240
McManus, William (D-Worcester)	174	2960
Menard, Joan (D-Somerset)	26	2080
Merrigan, John (D-Greenfield)	38	2470
Miceli, James (D-Wilmington)	448	2582
Murphy, Charles (D-Burlington)	236	2430
Murphy, Dennis (D-Springfield)	540	2090
Murphy, Kevin (D-Lowell)	39	2240
Murray, Mary Jeanette (R-Cohasset)	134	2400
Nagle, William Jr.(D-Northampton)	343	2600
Nangle, David (D-Lowell)	448	2582
Naughton, Harold (D-Clinton)	136	2396
Nyman, Robert (D-Hanover)	448	2582
O'Brien, Thomas (D-Kingston)	33	2060
O'Flaherty, Gene (D-Chelsea)	42	2370
Owens-Hicks, Shirley (D-Roxbury)	156	2256
Parente, Marie (D-Milford)	134	2400
Paulsen, Anne (D-Belmont)	22	2140
Pedone, Vincent (D-Worcester)	540	2090
Petersen, Douglas (D-Marblehead)	473F	2210
Peterson, George N. (R-Grafton)	541B	2489
Petrolati, Thomas (D-Ludlow)	478	2180
Pope, Susan (R-Wayland)	237	2305
Provost, Ruth (D-Sandwich)	26	2080
Quinn, John (D-Dartmouth)	136	2396
Reinstein, Kathi-Anne (D-Revere)	236	2430
Resor, Pamela (D-Acton)	473F	2210
Rivera, Cheryl (D-Springfield)	540	2090
Richie, Charlotte Golar (D-Dorchester)	238	2470
Rodrigues, Michael (D-Westport)	43	2030
Rogeness, Mary (R-Longmeadow)	124	2100
Rogers, George (D-New Bedford)	167	2692
Rogers, John (D-Norwood)	236	2430
Ruane, Michael (D-Salem)	238	2380
Rushing, Byron (D-South End)	542B	2637
Santiago, Jose C. (D-Lawrence)	146	2575
Scaccia, Angelo (D-Hyde Park)	167	2692
Simmons, Mary Jane (D-Leominster)	33	2060
Slattery, John (D-Peabody)	472	2120
Speliotis, Theodore (D-Danvers)	174	2960
Stanley, Harriett (D-Merrimac)	238	2380
Stasik, John (D-Framingham)	134	2400
Stefanini, John (D-Framingham)	146	2575
Story, Ellen (D-Amherst)	167	2692
Straus, William (D-Mattapoisett)	163	2040
Sullivan, David (D-Fall River)	443	2460
Sullivan, Joseph (D-Braintree)	443	2460
Swan, Benjamin (D-Springfield)	167	2692
Sydney, Ronny (D-Brookline)	26	2080
Teahan, Kathleen (D-Whitman)	130	2130
Timility, Walter (D-Milton)	254	2220
Tobin, Stephen (D-Quincy)	166	2900
Toomey, Timothy Jr. (D-Cambridge)	39	2240
Torrisi, David (D-North Andover)	39	2240
Travis, Philip (D-Rehoboth)	236	2430
Turkington, Eric (D-Falmouth)	473F	2210
Tuttle, David (R-Barre)	549	2489
Vallee, James (D-Franklin)	42	2370
Verga, Anthony (D-Gloucester)	134	2400
Wagner, Joseph (D-Chicopee)	236	2430
Walrath, Patricia (D-Stow)	466	2017
Walsh, Martin (D-Dorchester)	527A	2188
Wolf, Alice (D-Cambridge)	473G	2070

*four open seats at this time

Committees

		(617) 722-
Banks and Banking	42	2370
Bills in 3rd Reading, House	20	2410
Bills in 3rd Reading, Senate	413C	1200
Commerce & Labor	43	2030
Counties	33	2060
Criminal Justice	166	2900
Education	473G	2070
Election Laws	26	2080
Energy	540	2090
Ethics, House	163	2040
Federal Financial Assistance	156	2256
Governmental Regulations	472	2120
Health Care	130	2130
Housing & Urban Development	38	2470
Human Services & Elderly Affairs	22	2140
Insurance	254	2220
Judiciary (House Staff)	138	2396
Judiciary (Senate Staff)	213C	1222
Local Affairs	134	2400
Natural Resources	473F	2210
Personnel & Administration	448	2582
Post Audit & Oversight, House	146	2560
Post Audit & Oversight, Senate	312A	1252
Public Safety	473B	2230
Public Service	402	1643
Rules, House	167	2692
Rules, Senate	206	1520
State Administration	34	2320
Taxation	236	2430
Transportation	443	2460
Ways & Means, House	237	2380
Ways & Means, Senate	212	1481

Information Offices

House Clerk	145	2356
Senate Clerk	335	1276
Legislative Documents Room	428	2860
Hearing Impaired Info (TTY/TTD)	237	2659
State Bookstore	116	727-2834
State Library	341	727-2590
Secretary of State Galvin	337	727-2800
Citizens' Information:	727-7030 or 1-800-392-6090	

All legislative telephones begin with (617) 722-. The main switchboard is at (617) 722-2000.
Mail address for all legislators and committees: State House, Boston MA 02133

Citizens for Participation in Political Action Education Fund • 25 West St. Boston, MA 02111
For a free update, send a self addressed stamped envelope. Updates usually occur in late February.
Bulk copies $.15. Labels $25/set ($10 for non-profits). Tel: (617) 426-3042 Web: www.cppax.org

Victim Assistance Resources

Statewide Victim Assistance Agencies:	
Massachusetts Office for Victim Assistance	(617) 727-5200
Victim Compensation Division, Attorney General's Office	(617) 727-2200
Criminal History Systems Board, Victim Service Unit	(617) 660-4690
Department of Correction, Victim Service Unit	(617) 727-8612
Parole Board, Victim Service Unit	(617) 727-3271
U.S. Attorney's Office, Victim Witness Assistance	(617) 223-9400

Statewide Hotlines and Referral Centers:	
Child Abuse & Neglect Hotline	(800) 792-5200
Domestic Violence Hotline - *Call 411 to be connected to a local shelter*	DIAL 411
Elder Abuse & Neglect Hotline	(800) 922-2275
Lawyer Referral	(800) 392-6164
Massachusetts Alcohol and Drug Referral Hotline	(800) 327-5050
Parents Anonymous of Massachusetts	(800) 882-1250
Parental Stress Line	(800) 632-8188
Samaritans Suicide Prevention Hotline	(617) 247-8050
Samariteens	(800) 252-8336

District Attorney Victim and Witness Programs:	
Berkshire County - Elizabeth Keegan , Director	(413) 443-3500
Bristol County - Michele Stanton, Director	(508) 997-0711
Cape and Islands District - Virginia Bein, Director	(508) 362-8103
Essex County - Michaelene McCann, Director	(978) 745-6610
Hampden County - Maria Rodriguez, Director	(413) 747-1038
Middlesex County – Patrice Provitola, Director	(617) 494-4604
Norfolk County – Rai Cunningham, Director	(781) 329-5440
Northwestern District - Susan Manatt, Director	(413) 586-5780
Plymouth County - Michelle Mawn, Director	(508) 584-8120
Suffolk County - Janet Fine, Director	(617) 210-8800
Worcester County - Tony Pellegrini, Director	(508) 792-0214

Drunk Driving - MADD Chapters:	
MADD Statewide Victim Hotline	(800) 633-6233
MADD State Office	(508) 875-3736
MADD Berkshire County Chapter	(913) 663-3339
MADD Bristol County Chapter	(508) 997-8364
MADD Cape Cod Chapter	(508) 420-0200
MADD Hampden County Chapter	(413) 592-9953
MADD Metro West Chapter	(508) 875-3736
MADD Plymouth County Chapter	(978) 585-1888
MADD Worcester County Chapter	(508) 831-9785

Family Violence Services:

Alternative House - *Lowell*	(978) 454-1436
ARCH - *Springfield*	(413) 733-7100
Asian Shelter and Advocacy Project- *Boston*	(617) 338-2350
Casa Myrna Vasquez - *Boston*	(617) 521-0100
Daybreak - *Worcester*	(508) 755-9030
Domestic Violence Ended (DOVE) - *Quincy*	(617) 471-1234
Elizabeth Stone House -*Plain Jamaica*	(617) 522-3417
F.I.N.E.X. House - *Dorchester*	(617) 288-1054
Fenway Community Health Center (Gay/Lesbian Services) - *Boston*	(617) 267-0900
Mary Foreman House - *Dorchester*	(800) 992-2600
Harbor Me - *Chelsea*	(617) 889-2111
Help for Abused Women and Their Children (HAWC) - *Salem*	(508) 744-6841
Independence House - *Hyannis*	(800) 439-6507
International Institute - *Boston*	(617) 536-1081
N.E.L.C.W.I.T. - *Greenfield*	(413) 772-0806
Necessities/Necesidades - *Northhampton*	(413) 586-5066
Network for Battered Lesbians - *Boston*	(617) 424-8611
New Bedford Women's Center Battered Women Project - *New Bedford*	(508) 992-4222
New Beginnings - *Westfield*	(413) 562-1920
New Hope -*Attleboro, Norwood, Taunton*	(800) 323-4673
Our Sister's Place - *Fall River*	(508) 677-0224
Renewal House - *Roxbury*	(617) 566-6881
Respond - *Somerville*	(617) 623-5900
Safe Place, Inc. - *Nantucket*	(508) 228-2111
Services Against Family Violence - *Malden*	(781) 324-2221
South Shore Women's Center - *Plymouth*	(508) 746-2664
Transition House - *Cambridge*	(781) 661-7203
Waltham Battered Women's Support Committee - *Waltham*	(617) 899-8676
Womanshelter/Companeras - *Holyoke*	(413) 536-1628
Womansplace - *Brockton*	(508) 588-2041
Women's Crisis Center - *Newburyport*	(978) 465-2155
Women's Protective Services - *Framingham*	(508) 626-8686
Women's Resource Center - *Lawrence*	(978) 685-2480
Women's Resource Center - *Haverhill*	(978) 373-4041
Women's Resources - *Fitchburg*	(978) 342-9355
Women's Service Center - *Pittsfield*	(413) 443-0089
Women's Service Center - *North Adams*	(413) 663-9709
Women's Support Services - *Vineyard Haven*	(508) 696-7233

Homicide Bereavement Services:

After Homicide Program - *Worcester*	(508) 791-3261
Family Bereavement Program - *Marlborough*	(508) 481-8290
Homicide Bereavement Program - *Greenfield*	(413) 774-7931
Living After Murder Program - *Roxbury*	(617) 541-3790

Omega Emotional Support Services - *Somerville*	(617) 776-6369
Project Reach - *New Bedford and Plymouth*	(508) 996-3147
Surviving After Murder Program - *Springfield*	(413) 732-7419
Trauma Clinic - *Boston*	(617) 731-3200
Victims of Crime and Loss Program (VOCAL) - *Beverly*	(508) 927-4506
Victims of Violence Program - *Cambridge*	(617) 498-1284

Sexual Assault Services:

ARCH - YMCA - *Springfield*	(413) 733-7100
Beth Israel Hospital Rape Crisis Service - *Boston*	(617) 667-4645
Blackstone Valley Rape Crisis Team - *Milford*	(508) 478-2992
Boston Area Rape Crisis Center - *Cambridge*	(617) 492-7273
Cape Ann Sexual Assault Crisis Service - *Gloucester*	(978) 281-7631
Cape Cod Rape Crisis Center - *Hyannis*	(508) 790-1344
Community Programs Against Sexual Abuse - *Roxbury*	(617) 442-6300
Everyone's Center - *Amherst*	(413) 545-0800
Rape Crisis Center - *Marlborough*	(508) 485-7273
Latinas Against Sexual Assault - *Lawrence*	(978) 685-2480
Massachusetts General Hospital Rape Emergency Unit - *Boston*	(617) 726-2000
N.E.L.C.W.I.T - *Greenfield*	(413) 772-0806
New Hope Sexual Assault Program - *Attleboro*	(800) 323-4673
Norfolk County Sexual Assault Unit - *Dedham*	(781) 326-1111
North Shore Rape Crisis Center - *Beverly*	(800) 922-8772
Women's Place Crisis Center - *Brockton*	(508) 588-8255
Project Rap Crisis Team - *Beverly*	(800) 922-8772
Rape Crisis Center of Berkshire County - *Pittsfield*	(413) 499-2425
Rape Crisis Program of Central Massachusetts - *Worcester*	(508) 799-5700
Rape Crisis Service of Greater Lowell - *Lowell*	(800) 542-5212
Women's Protective Services - *Framingham*	(508) 626-8686

Massachusetts Victim/Citizen Advocacy and Support Groups:

Charlestown After Murder Program (CHAMP)	(781) 848-8973
Citizens for Safety	(617) 542-7712
Clothesline Project	(508) 385-7004
Joey Fournier Victim Services	(978) 837-5474
Massachusetts Citizens to Prevent Handgun Violence	(617) 437-9384
Mothers Against Drunk Driving	(800) 438-6233
Peace at Home	(617) 482-9497

Statewide Research and/or Advocacy Organizations:

Boston Coalition	(617) 451-1441
Children's Law Center of Massachusetts	(781) 581-1977
Civil Liberties Union of Massachusetts (CLUM)	(617) 482-3170
Crime and Justice Foundation	(617) 426-9800
Education Development Center	(617) 969-7100

Flaschner Judicial Institute	(617) 542-8838
Jane Doe, Inc.	(617) 248-0922
Massachusetts Law Reform Institute	(617) 357-0700
Massachusetts Society for the Prevention of Cruelty to Children	(617) 587-1500
National Organization for Women - Massachusetts	(617) 232-1017

State Agency Resources:

Administrative Offices of the Trial Court	(617) 742-8575
AIDS/HIV Bureau (DPH)	(617) 624-5300
Attorney General's Office	(617) 727-2200
Board of Bar Overseers	(617) 357-1860
Child Support Enforcement Division	(617) 577-7200
Citizen Information Service	(617) 727-7030
Committee for Public Counsel Services	(617) 482-6212
Corrections Department (DOC)	(617) 727-3300
Criminal History Systems Board	(617) 660-4690
Criminal Justice Training Council	(617) 727-7827
Disabled Persons Protection Commission	(617) 727-6465
District Court Administrative Office	(978) 745-9010
Elder Affairs, Executive Office	(617) 727-7750
Family Violence and Sexual Abuse Resources	(617) 624-5070
Governor's Alliance Against Drugs	(617) 727-0786
Governor's Hate Crimes Task Force	(617) 727-6300
Governor's Highway Safety Bureau	(617) 727-5073
Governor's Office	(617) 727-3600
Governor's Office of Constituent Services	(617) 727-6250
Judicial Conduct Commission	(617) 725-8050
Judicial Institute	(617) 742-8383
Juvenile Court Administrative Office	(617) 367-5767
Massachusetts Commission Against Discrimination: Eastern	(617) 727-3990
Massachusetts Commission Against Discrimination: Western	(413) 739-2145
Massachusetts Legal Assistance Corporation	(617) 367-8544
Massachusetts Office for Children	(617) 727-8900
Massachusetts Office for Victim Assistance	(617) 727-5200
Massachusetts Office on Disability	(617) 727-7440
Massachusetts State Police	(508) 820-2300
Mental Health Department (DMH)	(617) 727-5500
Parole Board	(617) 727-3271
Patient Abuse Advisory Office	(800) 462-5540
Probate and Family Court Administrative Office	(617) 742-9743
Probation, Office of the Commissioner	(617) 727-5300
Public Health Department (DPH)	(617) 624-6000
Public Safety, Executive Office	(617) 727-7775
Refugees and Immigrants Office	(617) 727-7888
Social Services Department (DSS)	(617) 727-0900

Superior Court Administrative Office	(617) 725-8130
Supreme Judicial Court	(617) 557-1000
Transitional Assistance Department (DTA)	(617) 348-8500
Victim Compensation and Assistance Division	(617) 727-2200
Violence Prevention Office (DPH)	(617) 624-5070
Youth Services Department (DYS)	(617) 727-7575

Massachusetts Professional Organizations:

Massachusetts Bar Association	(617) 542-3602
Massachusetts Chiefs of Police Association	(617) 723-5002
Massachusetts District Attorneys Association	(617) 723-0642
Massachusetts Medical Society	(781) 893-4610
Massachusetts Psychological Association	(617) 523-6320
Massachusetts Sheriffs Association	(617) 635-1100
Women's Bar Association of Massachusetts	(617) 695-1851
Women's Legislative Caucus	(617) 722-2800

Massachusetts State Correctional Facilities:

Bay State Correctional Center	(617) 727-8474
Boston State Pre-Release Center	(617) 727-8130
Bridgewater State Hospital	(508) 697-8161
Lancaster Pre-Release Center	(978) 368-8388
MCI Cedar Junction/Walpole	(508) 668-4730
MCI Concord	(617) 727-1950
MCI Framingham	(617) 727-5056
MCI Lancaster	(508) 792-7590
MCI Norfolk	(508) 668-0800
MCI Plymouth	(617) 727-8938
MCI Shirley	(978) 425-4341
Northcentral Correctional Institution	(508) 792-7560
Northeastern Correctional Center	(978) 369-4120
Old Colony Correctional Center	(508) 697-3360
Park Drive Pre-Release Center	(617) 727-2275
Pondville Correctional Center	(617) 727-5203
Southeast Correctional Center	(508) 727-7672
South Middlesex Correctional Center	(508) 872-0281

County Jails and Houses of Correction Facilities:

Barnstable County Jail and House of Correction	(508) 362-3252
Berkshire County Jail and house of Correction	(413) 443-7220
Bristol County Jail and House of Correction	(508) 995-6400
Dukes County House of Correction	(508) 627-5173
Franklin County Jail and House of Correction	(413) 774-4014
Hampden County Jail and House of Correction	(413) 547-8000
Hampshire County Jail and House of Correction	(413) 584-5911

Essex County Jail and House of Correction	(508) 750-1900
Middlesex County House of Correction	(508) 667-1711
Middlesex County Jail	(617) 494-4400
Norfolk County Jail and House of Correction	(617) 329-3705
Plymouth County Jail and House of Correction	(508) 830-6200
Suffolk County House of Correction	(617) 635-1000
Worcester County Jail and House of Correction	(508) 854-1800

Federal Agency Resources:

Bureau of Alcohol, Tobacco, and Firearms: Boston	(617) 565-7040
Bureau of Justice Statistics Clearinghouse	(800) 732-3277
Bureau of Justice Statistics Response Center	(800) 421-6770
Centers for Disease Control and Prevention	(404) 639-3311
Child Abuse and Neglect Clearinghouse	(800) 394-3366
Drug Enforcement Administration: Boston	(617) 557-2100
Drug Information Policy Clearinghouse	(800) 666-3332
Federal Bureau of Investigation: Boston	(617) 742-5533
Institute of Justice Clearinghouse	(800) 851-3420
Juvenile Justice Clearinghouse	(800) 638-8736
National Center for Injury Prevention and Control	(770) 488-4696
National Clearinghouse for Alcohol and Drug Information	(800) 729-6686
U.S. Attorneys Office: Boston	(617) 223-9400
U.S. Department of Justice	(202) 514-2000
U.S. Office for Victims of Crime	(202) 307-5983
U.S. Office of Juvenile Justice and Delinquency	(202) 307-0751
U.S. Office on Violence Against Women	(202) 616-8894
Violence and Traumatic Stress Research Branch	(301) 443-3728

National Professional Organizations:

American Bar Association	(202) 662-1000
American Correctional Association	(612) 928-4658
American Counseling Association	(703) 823-9800
American Probation and Parole Association	(606) 244-8207
American Professional Society on the Abuse of Children	(312) 554-0166
American Psychiatric Association	(202) 682-6000
American Psychological Association	(202) 336-5500
American Public Health Association	(202) 789-5600
Association of Paroling Authorities: Victims Committee	(916) 354-1781
Coalition of Victim's Attorneys and Consultants	(703) 276-2880
National Association of Attorneys General	(202) 326-6000
National Association of Crime Victim Compensation Boards	(703) 370-2996
National Criminal Justice Association	(202) 624-1440
National District Attorneys Association	(703) 549-9222
National Governors' Association	(202) 624-5300
National Sheriffs Association	(800) 424-7827

National Association of Social Workers	(202) 408-8600
National Association of Women Judges	(757) 259-1841
National Association of Women Lawyers	(312) 988-6186

National Research and/or Advocacy Organizations:

American Association on Retired Persons	(202) 434-2277
American Indian Law Center	(505) 277-5462
American Prosecutors Research Institute	(703) 549-4253
Amnesty International	(212) 807-8400
Anti-Defamation League	(212) 490-2525
Battered Women's Justice Project	(800) 903-0111
Campus Violence Prevention Center	(410) 830-2178
Center for Constitutional Rights	(212) 614-6464
Center for Law and Justice	(206) 685-2043
Center for the Prevention and Control of Interpersonal Violence	(313) 577-6690
Center for the Prevention of Sexual and Domestic Violence	(206) 634-1903
Center for the Study and Prevention of Violence	(303) 492-1032
Center for the Study of Crime Victims' Rights, Remedies & Resources	(203) 932-7041
Center for Women Policy Studies	(202) 872-1770
Center to Prevent Handgun Violence	(202) 289-7319
Child Abuse and Neglect Clearinghouse	(202) 394-3366
Children's Defense Fund	(202) 628-8787
Family Violence Prevention Fund	(415) 252-8900
Foundation for the Prevention of Child Abuse	(419) 535-3232
Handgun Control, Inc.	(202) 898-0792
Health Resource Center on Domestic Violence	(888) 792-2873
National Center for Missing and Exploited Children	(800) 843-5678
National Center for Prosecution of Child Abuse	(703) 739-0321
National Center for Victims of Crime	(703) 276-2880
National Center on Elder Abuse	(202) 682-0100
National Center on Women and Family Law	(212) 219-1800
National Children's Advocacy Center	(205) 533-0531
National Committee for the Prevention of Child Abuse	(312) 663-3520
National Committee for the Prevention of Elder Abuse	(508) 793-6166
National Crime Prevention Council	(202) 466-6272
National Crime Victims Research and Treatment Center	(803) 792-2945
National Gay and Lesbian Task Force	(202) 332-6483
National Indian Justice Center	(707) 762-8113
National Law Enforcement Council	(202) 835-8020
National Organization for Women	(202) 331-0066
National Organization of Victim Assistance	(202) 232-6682
National Resource Center on Domestic Violence	(800) 537-2238
National School Safety Center	(805) 373-9977
NOW Legal Defense and Education Fund	(212) 925-6635
Parents of Murdered Children	(513) 721-5683

Remove Intoxicated Drivers USA	(518) 393-4357
Resource Center on Child Protection and Custody	(800) 527-3223
Security on Campus, Inc.	(610) 768-9330
State Justice Institute	(703) 684-6100
Victim's Assistance and Legal Organization (VALOR)	(703) 684-8310
Victims CAN (Constitutional Amendment Network)	(703) 276-2880
Victim Offender Mediation Association	(714) 836-8100
Violence Policy Center	(202) 822-8200
Women's Legal Defense Fund, Inc.	(202) 986-2600

National Hotlines and Referral Centers:

AIDS/HIV Information Hotline	(800) 342-2437
Child Help USA	(800) 422-4453
Drug Abuse Hotline	(800) 662-4357
Family Violence Prevention Fund Information Line	(888) 792-2873
Marital Rape Information Line	(217) 244-1024
Mothers Against Drunk Driving	(800) 438-6233
National Center for Missing and Exploited Children	(800) 843-5678
National Child Abuse Hotline	(800) 422-4453
National Criminal Justice Referral Center	(800) 851-3420
National Family Violence Helpline	(800) 222-2000
National Self-Help Clearinghouse	(212) 642-2944
National Sexually Transmitted Diseases Hotline	(800) 227-8922
National Victim Resource Center	(800) 627-6872
Rape, Abuse, and Incest National Network	(800) 656-4673

National Victim/Citizen Advocacy and Support Groups:

Alliance Against Intoxicated Motorists	(708) 240-0027
Alliance Against Violence in Entertainment for Children	(508) 481-6926
One Voice/American Coalition for Abuse Awareness	(202) 462-4688
Child Find of America, Inc.	(914) 255-1848
Child Help USA	(540) 399-1926
Children's Safety Network	(301) 443-0926
Coalition to Stop Gun Violence	(202) 530-0340
Compassionate Friends, Inc.	(630) 990-0010
Cult Awareness Network	(773) 267-7777
Incest Survivors Resource Network International	(505) 521-4260
Missing Kids International, Inc.	(703) 761-2456
Men Stopping Rape	(608) 257-4444
Mothers Against Drunk Driving	(800) 438-6233
National Coalition Against Domestic Violence	(800) 799-7233
National Coalition Against Pornography	(513) 521-6227
Neighbors Who Care	(703) 904-7311

GENERAL INFORMATION RESOURCES:
National Criminal Justice Reference Service/Justice Information Center http://www.ncjrs.org
National Organization for Victim Assistance http://www.try~nova.org/
National Victim Center http://www.nvc.org
Office for Victims of Crime http://www.ojp.usdoj.gov/ovc/
Massachusetts Office for Victim Assistance http://www.state.ma.us/mwa
Join Together http://www.jointogether.org

CHILD ABUSE:
American Bar Association Center on Children and the Law http://www.abanet.org/child/
American Professional Society on the Abuse of Children http://child.cornell.edu/APSAC/apsac.home.html
Child Abuse Prevention Network http://child.cornell.edu
National Children's Advocacy Center http://www.ncac~hsv.org/
National Clearinghouse on Child Abuse & Neglect Information http://www.calib.com/nccanch

DOMESTIC AND FAMILY VIOLENCE:
Domestic Abuse Page of the Nashville Police Department http://www.nashville.net/~police/abuse/index.html
Family Violence Prevention Fund http://www.igc.org/fund/
Minnesota Higher Education Center Against Violence and Abuse http://www.mincava.umn.edu
National Coalition Against Domestic Violence http://www.webmerchants.com/ncadv/default.htm
National Domestic Violence Hotline http://www.usdoj.gov/vawo/newhotline.htm
Violence Against Women Office (U.S. Department of Justice) http://www.usdoj.gov/vawo/

DRUNK DRIVING:
MADD http://www.madd.org
MADD (Bristol County) http://www.ultranet.comforward/~Toniasue

FRAUD:
National Fraud Information Center http://www.fraud.org
National Insurance Crime Bureau http://www.nicb.org
Federal World Government http://www.fedworld.gov
U.S. Postal Inspection Service http://www.usps.gov/websites/depart/inspect/consmenu.htm

MISSING CHILDREN:
Childquest International http://www.childquest.org/
National Center for Missing and Exploited Children http://www.missingkids.org

RAPE AND SEXUAL ABUSE:
National Coalition Against Sexual Assault http://www.ncasa.org
Rape Abuse and Incest National Network http://www.rainn.org
Sexual Assault Information Page http://www.cs.utk.edu/~bartley/saInfoPage.html

SURVIVOR RESOURCES & NATIONAL AND STATE HOMICIDE ORGANIZATIONS:
David Baldwin's Trauma Information Page http://www.trauma-pages.com
Parents of Murdered Children http://www.pomc.com
MADD http://www.madd.org
COPS http://www.nationalcops.org/npw.htm
New Mexico Survivors of Homicide http://www.nmsoh.org/index.html
Justice for All http://www2.jfa.net/jfa
Victim's Page http://www.eskimo.com/~yaquii/victimpg.htm
The Fallen Wall http://www.fallenwall.org

Crime and Victimization in America

STATISTICAL OVERVIEW

General Data

- There was one violent crime every 19 seconds in 1997. *(Federal Bureau of Investigation, 1998)*
- In 1996, there were an estimated 37,000,000 victimizations of persons age 12 or older, including 9,100,000 violent victimizations. There were 307,000 attempted or completed rapes and sexual assaults; 1,134,000 attempted or completed robberies; 7,683,000 attempted or completed assaults; and 27,300,000 property crimes. *(Ringel, 1997)*
- The violent crime rate decreased 10.3% from 1995 to 1996. In 1996, there were 42 violent victimizations and 266 property crimes per 1,000 U.S. residents age 12 or older. *(Ibid)*
- During 1996, men were more likely than women to be a victims of violent crime, except for rape and sexual assault. Women were 10 times as likely to become victims of rape or sexual assault. Men where twice as likely as women to experience aggravated assault and robbery. *(Ibid)*
- In 1996, full-time prosecutors' offices serving a population of 1 million or more employed 8 victim advocates; offices serving 250,000 to 999,999 people employed 5 victim advocates; and offices serving under 250,000 employed 1 victim advocate. *(DeFrances & Steadman, 1998)*

Cost of Crime

- Between $5,800,000 to $6,800,000, about 12% of total mental health care expenditures, is spent on mental health care for crime victims each year. *(Cohen & Miller, 1998)*
- The average yearly loss to female victims of intimate violence in medical expenses is $61,000,000; when broken or stolen property and lost pay is added to the figure it increases to $150,000,000 (Greenfield et al, 1998); when indirect costs are included, such as pain and suffering and loss of quality of life, another $65,000,000 annually would need to added. *(Miller, et al. 1996)*
- Fraud victimization causes an estimated monetary loss of $40,000,000,000 annually for victims of personal fraud commonly involving deception and abuse of trust for financial gain. *(Titus et al. 1995)*
- In FY 1997, $248,717,660 was paid to crime victims by state compensation programs. *(National Association of Crime Victim Compensation Boards, 1998)*
- During FY 1996, Federal courts ordered $1,538,459,644 in monetary restitution and fines. *(Bureau of Justice Statistics, Sourcebook, 1997)*
- The cost of crime to victims is an estimated $450,000,000,000 a year when factors such as medical cost, lost earnings, pain, suffering and lost quality of life are considered. *(Miller, et al. 1996)*
- Rape is the most costly to its victims totaling $127,000,000,000 a year. Assault comes in second at $71,000,000,000, drunk driving costs $61,000,000,000, and child abuses costs $56,000,000, 000. *(Ibid)*

Fear and Concern of Crime

- In 1997, 64% of Gallup poll respondents reported that they believe there is more crime than a year ago. *(Bureau of Justice Statistics, Sourcebook, 1998)*
- During the 30 days surveyed, 4% of students had missed 1 or more days of school because they felt unsafe at school or when traveling to or from school. *(Centers for Disease Control, 1998)*
- Nationally, about 1 in 10 households are "very concerned" about a home break-in. *(Hall & Bryant, 1998)*
- Of 119 black Atlantic City residents age 65 and over, 76% considered their neighborhoods to be "bad," and only 24% felt that their neighborhoods were safe. Fifty-one percent knew someone who had been victimized during the past year, and 27% had been victims of crime themselves during that period. *(Joseph, 1997)*
- Businesses and consumers spend an estimated $65,000,000,000 on private security, such as alarms, guards and locks. *(Mandel, et al. 1993)*
- Only 20% of Gallup poll respondents had a "great deal" or "quite a lot" of confidence in the criminal justice system whereas 59% had the same feelings toward the police. *(Bureau of Justice Statistics, Sourcebook, 1997)*
- In 1997, the percentage of Gallup Poll respondents who reported that they were afraid to walk alone at night was close to the response in 1965 (38% and 34%, respectively). *(Bureau of Justice Statistics, Sourcebook, 1997)*

THE NATIONAL CENTER FOR Victims of Crime

Child Abuse / Child Sexual Abuse

- Child protective service agencies determined that almost 1,000,000 children were identified as victims of substantiated or indicated abuse or neglect in 1996. *(U.S. Department of Health and Human Services, Children's Bureau, 1998)*

- In 1996, the national rate of victimization was 15 victims per 1,000 children in the population. *(Ibid)*

- During 1996, an estimated 1,077 child maltreatment fatalities occurred in the 50 states and the District of Columbia. *(Ibid)*

- According to the National Committee to Prevent Child Abuse's annual survey, state child protective agencies received an estimated 3,195,000 reports of children allegedly being maltreated. *(Wang & Daro, 1998)*

- In 1997, 980,712 missing persons (adults and juveniles) were reported to the police and entered into the FBI's National Crime Information Center. The FBI estimates that 85% – 90% of missing persons are juveniles; therefore, approximately 850,000 cases of missing children (or 2,300 children per day) occurred in 1997. *(National Center for Missing and Exploited Children, 1998)*

- A survey of adolescent boys health revealed that one in eight (13%) high school boys had been physically or sexually abused or both. Two-thirds (66%) of boys who reported physical abuse said it occurred at home, and 68% reported that the abuser was a family member. Of sexually abused boys, one-third (35%) said the abuse happened at home and less than half (45%) said the abuser was a family member. Forty-eight percent of physically or sexually abused boys said they had not talked to anyone about their abuse and only 7% had discussed their abuse with a doctor. *(Schoen & Davis, et al. 1998)*

- One in five (21%) of the high school girls surveyed reported that she had been physically or sexually abused. The majority of the abuse occurred at home (53%) and more than once (65%). Twenty-nine percent of girls who had been physically or sexually abused have not told anyone about the abuse. Forty-six percent of abused girls had depressive symptoms, more than twice the rate of girls who said they had not been abused (18%). Abused girls are also at double the risk for signs of eating disorders. *(The Commonwealth Fund, 1997)*

Criminal Driving

- In 1997, 16,189 people were killed in alcohol-related crashes, representing an average of one alcohol-related fatality every 32 minutes. This constitutes 38.6% of all 1997 traffic deaths. *(NHTSA, 1998)*

- About 3 in every 10 Americans will be involved in an alcohol-related crash at some time in their lives. *(Ibid)*

- In 1997, 30% of all traffic fatalities occurred in crashes in which at least one driver or nonoccupant had a blood alcohol content (BAC) of 0.10 g/dl (grams per deciliter) or greater. More than 68.5% of the 12,704 people in such crashes were themselves intoxicated, including 1,695 intoxicated pedestrians and pedalcyclists. The remaining 31.5% were passengers (2,652), nonintoxicated drivers (825), or nonintoxicated nonoccupants (529). *(Ibid)*

- NHSTA estimates that alcohol was involved in 39% of fatal crashes and in 7% if all crashes in 1997. *(Ibid)*

- Fatally injured drivers with BAC levels of 0.10 g/dl or greater were 7 times as likely to have a prior conviction for driving while intoxicated compared to fatally injured sober drivers (11.3% and 1.6%, respectively). *(Ibid)*

- In 1996, 1,013,932 arrests were made for driving under the influence. Of those, 26,401 people were under the age of 21. *(Federal Bureau of Investigation, 1997)*

- 28,000 Americans died in 1996 because of aggressive driving; there is an estimated 2,000,000,000 episodes of road rage per year in the U.S. *(Nerenberg, 1998)*

- The AAA Foundation for Traffic Safety released data in 1996 showing that the average number of violent incidents reported between drivers in the U.S. has increased annually over the past eight years, 51% since 1990. In 1996 alone about 2,000 violent incidents were formally reported by police nationwide. Seventy-eight percent of company car drivers said that at some time another driver had verbally abused them, while 21% said that another driver had forced them to pull over or off the road. However, although most cases of road rage did not lead to physical injury – only 3% suffered from physical violence and 10% suffered damage to their car from road ragers. *(James, 1997)*

- USA Today, CNN and Gallup polled 1,014 adults about their driving behavior during the past five years. The poll results indicate that men drive more aggressively than women: 46% of men and 33% of women have shouted, cursed or made gestures to other drivers whose driving upset them; 32% of men and 24% of women have slowed down when someone behind them honked or flashed their lights; and 21% of men and 11% of women have had a verbal exchange with another driver. Only 13% of the survey respondents admitted to driving more aggressively than five years ago while 64% made that accusation of others. *(Puente & Castandeda, 1997)*

Corrections

- Forty-four states, the Federal Bureau of Prisons, and the U.S. Parole Commission currently maintain corrections-based victim services programs. *(National Victim Center, 1998)*

- The average prison sentence for violent offenders, in 1994, was 118 months; they were estimated to serve 54 months or 46% of their sentence. Murderers served an estimated 127 months (41%) of their 269 month average sentence while rapists served an estimated 85 months (54%) of their 158 month average sentence. *(Brown & Langdan, 1998)*

- Of convicted violent offenders sentenced to prison, in 1994, 57% had one felony conviction; 69% had two felony convictions; and 79% had three or more felony convictions. *(Ibid)*

- In state courts, during 1994, there were an estimated 8,924 people convicted of murder, 3,083 convicted of manslaughter, 20,068 convicted of rape, and 31,010 convicted of weapon offenses. *(Ibid)*

- In 1994, the average number of days between arrest and conviction for violent offenders in state courts was 215 days. For offenders convicted by a jury, the average was 285 days; for offenders convicted by a judge, the average was 285 days; for offender pleading guilty, the average was 203 days. *(Ibid)*

- Men sentenced to prison nationwide had an average sentence length of 6 years and 8 months, while women nationwide had a average prison sentence of 4 1/2 years. *(Ibid)*

- During 1997, 211,800 (18%) probationers who were discharged from supervision and 168,000 (41%) parolees leaving supervision were incarcerated because of a rule violation or new offense. *(Bureau of Justice Statistics, 1998)*

- On any given day in 1994, of the 234,000 convicted sex offenders in the U. S. correctional system, 57% were on parole (following imprisonment) or probation, while 43% were in jail or prison. *(Greenfeld, 1997)*

Domestic Terrorism

- From 1990 - 1996 there were 17 incidents of terrorism in the United States and it's territories, including the bombing of the World Trade Center building in New York City, the bombing of the Alfred P. Murrah Federal building in Oklahoma City and the bombing at the Summer Olympic Games in Atlanta. *(Federal Bureau of Investigation, 1997)*

- Five planned terrorist acts were prevented in 1996. These acts were directed against local law enforcement officials in Montana, an FBI facility in West Virginia, communications and transportation infrastructure and banking facilities in Washington state. *(Ibid)*

Elder Abuse

- In 1996, there were an estimated 820,000 to 1,860,000 abused elders in the country. *(National Center on Elder Abuse, 1998)*

- Experts estimate that only 1 in 14 of domestic elder abuse incidents come to the attention of authorities; there were 293,000 domestic elder abuse reports in 1996. *(Ibid)*

- Neglect is the most common form of elder maltreatment in domestic settings. Of the non-self-neglect reports that were substantiated in 1996, 55% involved neglect. Physical abuse accounted for 14.6 % in the same year, while financial/material exploitation represented 12.3 % of the substantiated reports. *(Ibid)*

- In 1996, 67.3 % of all reports of abuse involved female victims, while 32.4 % involved male victims. The median age of elder abuse victims was 77.9 years, according to 1996 data that excluded self-neglecting elders. The median age of self-neglecting elders was 77.4 years. *(Ibid)*

- There are currently 570 TRIAD programs in existence, including 1 in Canada and 6 in the United Kingdom. TRIAD is a three-way commitment among the chief(s) of police in a county, the sheriff and older or retired leaders who agree to work together to reduce the criminal victimization of the elderly and enhance the delivery of law enforcement services to older persons. *(National Sheriff's Association, 1998)*

- A survey of over 2,000 non-institutionalized elders found that being abused by a partner was more common than being abused by adult children (58% and 24%, respectively). *(Wolf, 1996)*

Hate Crime

- During 1997, the Southern Poverty Law Center (SPLC) documented 474 hate groups and group chapters involved in racist activity, an increase of 20% from 1996. Of the 474 groups, 127 were Klan organizations and their chapters; 100 were neo-Nazi; 42 were Skinhead; 81 were Christian Identity (a racist religion); 12 were black separatist; and 112 followed hate-based doctrines and ideologies. *(SPLC, 1998)*

- Since March 1995, SPLC has identified 163 active Internet sites endorsing racial hatred. The sites include the following: 29 Klan; 39 neo-Nazi; 27 racist skinhead; 25 Christian Identity; and 43 following ideologies based on hate. *(Ibid)*

- In 1997, the National Coalition of Anti-Violence Programs (NCAVP) documented 268 incidents motivated in whole or in part by hatred, fear and ignorance about HIV/AIDS. *(NCAVP, 1998)*

- In 1997, 2,930 victims reported anti-lesbian, gay, bisexual, transgender, and HIV positive (LGBTH) incidents and there were 5,338 LGBTH offenses. There are more reported offenses than incidences because one incident often includes several offenses. There were 1081 assaultive offenses in 1997 which break down as follows: assault without a weapon 576 (11%); assault with a weapon 274 (5%); attempted assault with a weapon 118 (2%); sexual assault/rape 95 (2%); murder 18 (.5%). *(Ibid)*

- In 1997, there was a total of 1,571 anti-Semitic incidents reported to the Anti-Defamation League; this represents a 9% decrease from last year and continues a three year decline. Incidents included: 898 cases of harassment and 673 acts of vandalism, representing 57% and 43% of the total incidents, respectively. *(Waller, 1998)*

- The five states reporting the most anti-Semitic incidents in 1997 were: New York (380), New Jersey (197), California (180), Florida (114), and Massachusetts (99). These states accounted for 970 of the total incidents reported. *(Ibid)*

- The most common bias motivation behind hate crime in 1996 was race (63%), followed by religion (14%), sexual orientation (12%) and ethnicity (11%). *(Federal Bureau of Investigation, 1997)*

- A study that surveyed a small sample of lesbian, gay and bisexual adults found that 41% reported being a victim of a hate crime since age 16. These hate crime victims also reported experiencing higher levels of depression, anxiety, anger and posttraumatic stress symptoms. *(Herek, et al. 1997)*

Homicide

- An estimated 18,209 persons were murdered in 1997. *(Federal Bureau of Investigation, 1998)*

- Firearms were used in seven out of ten murders in 1996. Arguments were the cause of 31% of the homicides, and felo-

nious activities, such as robbery and arson, led to 19% of the homicides. *(Federal Bureau of Investigation, 1997)*

- Homicide is the tenth leading cause of death of men in the United States. *(Edmonson, 1997)*

Mental Health Consequences

- Crime victims are estimated to represent about 20% to 25% of the total client population of mental health care professionals. *(Cohen & Miller, 1998)*
- More than half of the victims seeking mental health care are adult survivors of child sexual or physical abuse. *(Ibid)*
- In 1991, an estimated 3,100,000 to 4,700,000 people received mental health counseling primarily as a result of criminal victimization. *(Ibid)*

Relationship Violence

- Nearly 1 in 4 American women between the ages of 18 and 65 has experienced domestic violence. *(Body Shop, 1998)*
- In 1996, there were nearly 1,000,000 female victims and about 150,000 male victims of intimate violence. *(Greenfield, et al, 1998)*
- About 1 in 10 women victimized by a violent intimate sought professional medical treatment. *(Ibid)*
- Among those treated for violence-related injuries with a known relationship to the offender, about 50% of the women and 8% of the men had been injured by an intimate. *(Ibid)*
- About 1 in 6 female victims of intimate violence received assistance from a victim service agency between 1992 and 1996. *(Ibid)*
- During 1996, the National Coalition of Anti-Violence Programs (NCAVP) documented 2,352 cases of lesbian, gay, bisexual, and transgender domestic violence victimization. Men reported 1,191of the incidents while women reported 1,161of the incidents. *(NCAVP, 1997)*
- In 48% of all violent victimizations, during 1996, the victim knew the offender. *(Ringel, 1997)*
- Recently released results of a study examining partner violence among young adults found that 3 times more women than men (18.6% and 5.7% respectively) said they kicked, bit, hit with a fist, or hit with an object. *(Moffitt, 1997)*
- Approximately 17% of the estimated 1,400,000 people treated in hospital emergency rooms for violence-related injuries in 1994 were injured by intimates, either a former or current spouse, boyfriend or girlfriend. More women than men were injured by intimates (37% and 5%, respectively). *(Rand, 1997)*
- In 1996, 30% of all female murder victims were killed by their husbands or boyfriends while 3% of males were killed by their wives or girlfriends. *(Federal Bureau of Investigation, 1997)*
- In a study of 635 high school students, about 37% of boys and 36% of girls reported that they have experienced physical dating violence. More than 90% of the boys described the worst incident as hurting "very little" or "not at all" while nearly half of the girls described the worst incident as hurting "a lot" and resulting in bruises or causing them to need medical attention. *(University of Michigan, 1997)*

Sexual Assualt

- In 1996, there were a total of 98,000 completed rapes of persons age 12 and older, a 42.9% decrease from 1996, and a total of 307,000 completed and attempted rapes and sexual assaults, a 17.6% decrease from 1995. *(Ringel, 1997)*
- In 1996, the rape/sexual assault rate for females was 2.3 per 1,000 persons age 12 or older. The rape/sexual assault rate for males was .4 per 1,000 persons age 12 or older. *(Ibid)*
- According to a 1995 Department of Defense survey, 4% of all female soldiers said they had been the victim of a completed or attempted rape or sexual assault during their military service. Sixty- one percent of the female soldiers said they had been sexually harassed in the Army. *(High, 1997)*
- Results from the National Women's Study, show that 26.6% of women suffering from bulimia nervosa were raped at some point in their lives while only 13.3% of women who do not have binge eating disorders or bulimia nervosa have been raped. *(Dansky, et al. 1997)*

School Violence

- In 1996, students age 12-18 were victims of about 255,000 incidents of nonfatal serious violent crime at school. *(Kaufman & Chen, et al, 1998)*
- Over the five year period from 1992 - 1996, teachers were the victims of 1,581,000 nonfatal crimes at school, including 962,000 thefts and 619,000 violent crimes which translates into about 316,000 nonfatal crimes per year over this time period. *(Ibid)*
- In 1995, 14.5% of students ages 12 through 19 reported experiencing various forms of victimization at school. *(Chandler, et al, 1998)*
- Between 1989 and 1995, the percent of students who reported a street gang presence in their schools nearly doubled, increasing from 15.3% to 28.4%. *(Ibid)*
- One in ten U.S. public schools reported experiencing at least one serious violent crime during the 1996-97 school year. *(Heaviside, et al, 1998)*
- Fifty-seven percent of U.S. public schools reported experiencing at least one crime (violent or non-violent) in the 1996-97 school year. *(Ibid)*
- During the 1996-97 school year, schools reported experiencing 4,000 rapes or other types of sexual battery, 11,000 physical attacks or fights in which weapons were used, and 7,000 robberies. *(Ibid)*

Stalking

- 1 in 12 or 8,156,460 women and 1 in 45 or 2,040,460 men has been stalked at some time in their life. *(Tjaden, 1998)*
- Approximately 1,000,000 women and 400,000 men are stalked annually in the United States. *(Tjaden, 1997)*
- A survey of 145 stalking victims in 20 states found that following a victimization 88% reported that they were cautious versus 15% prior to the stalking, 52% were easily frightened versus 4% prior to the stalking, 41% often felt paranoid versus 2% prior to the stalking, and 27% were more aggressive. *(Hall, 1997)*
- One hundred stalking victims completed questionnaires about their victimizations. The majority reported that they were harassed in several ways, such as being followed, repeatedly approached and bombarded with letters and telephone calls. The duration of the stalkings ranged from one month to twenty years. Fifty-eight of the respondents had received threats, and 34 were physically or sexually assaulted. Ninety-four percent significantly altered their social and work lives because they were being stalked; 83% felt increased levels of anxiety; 24% thought about suicide; and 37% suffered from posttraumatic stress disorder. *(Pathe & Mullen, 1997)*

Youth Violence

- Since the mid-1980's the rate of murder by youth has doubled, increasing to102%. *(Fox, 1998)*
- In the United States, homicide causes 20% of all deaths among youth and young adults 10 to 24 years of age. *(Centers for Disease Control and Prevention. 1998)*
- During the 30 days surveyed, students carried a weapon on school property 8.5% of the time, 5.9% of the time the weapon was a gun. The prevalence of students who had been injured with a weapon on school property one or more times during the twelve months preceding the survey was 7.4%. *(Ibid)*
- According to data from the National Center for Health Statistics, gunfire killed 5,254 children age 19 and under in 1995, an almost 10% decrease since 1994. This means that fourteen children die each day from guns in America. *(Children's Defense Fund, 1997)*
- Data from the Bureau of Justice Statistic's National Criminal Victimization Survey and the Federal Bureau of Investigation's Uniform Crime Report indicate that juveniles age 12 to 17 committed about one quarter of the serious violent crimes, a category that covers rape, robbery, aggravated assault and homicide. *(Bureau of Justice Statistics, Perceived Age, 1997)*
- Over 2,000 law enforcement agencies reported that 23,388 youth gangs were active in their jurisdictions in 1995. Ninety percent of these agencies believe that their gang problem will remain the same or become worse. By the number of gangs states reported, California had the most (4,927), followed by Texas (3,276), Illinois (1,363) and Colorado (1,304). *(Office of Juvenile Justice and Delinquency Prevention, 1997)*

Workplace Violence

- Data from the National Crime Victimization Survey for 1992-1996 indicate that during each year U.S. residents experienced more than 2,000,000 victimizations while they were working or on duty. *(Warchol, 1998)*
- The most common type of workplace violence, occurring from 1992-1996, was simple assault with an estimated average of 1,500,000 victimizations. U.S. residents also suffered 369,000 aggravated assaults, 51,000 rapes and sexual assaults, 84,000 robberies and 1,000 homicides. *(Ibid)*
- Of the more than 2,000,000 victims of workplace violence, 66.8% were male and 33.2% were female; 88.6% were white and 8.9% were black; the most common age was 35-49 with 37% becoming victims of workplace violence. *(Ibid)*
- Law enforcement is the most common occupation for nonfatal workplace violence victims with an average of 234,200 victimization a year. *(Ibid)*
- Workplace homicides account for about 1 in every 6 fatal occupational injures. Sales workers experienced the highest number of workplace homicides with an average of 327 a year from 1993-1996. *(Ibid)*
- In 1997, there were 1,103 assaults and violent acts committed against victims in the workplace. There were 856 homicides, 705 shootings, 73 stabbings 78 other violent acts, including bombings and 212 self inflicted injuries. *(Bureau of Labor Statistics, 1998)*
- Although job-related homicides dropped 7% from 1996, homicide was still the second leading cause of job-related deaths; 14% of the fatalities at work were homicides. The primary motive behind these homicides was robbery and four-fifths of workplace homicides resulted from shootings. *(Ibid)*
- Findings from a recent survey on domestic violence victims in the workplace reported that 24% of women surveyed said domestic abuse caused them to arrive late for work, 15% of women had a difficult time keeping a job, 20% of women said that it affected their ability to advance in their career. *(Body Shop, 1998)*
- Businesses ranked workplace violence as their top concern for the third straight year in the 1996 Pinkerton Security Issues Survey Report. *(Montoya, 1997)*
- The Annual Survey of Occupational Injuries and Illnesses reported that, 22,400 workplace assaults occurred in 1992. Forty-four percent of the victims were male and 56% were female. Most of the assaults took place in the service and retail trade industries (64% and 21%, respectively). *(Bureau of Labor Statistics, 1994)*

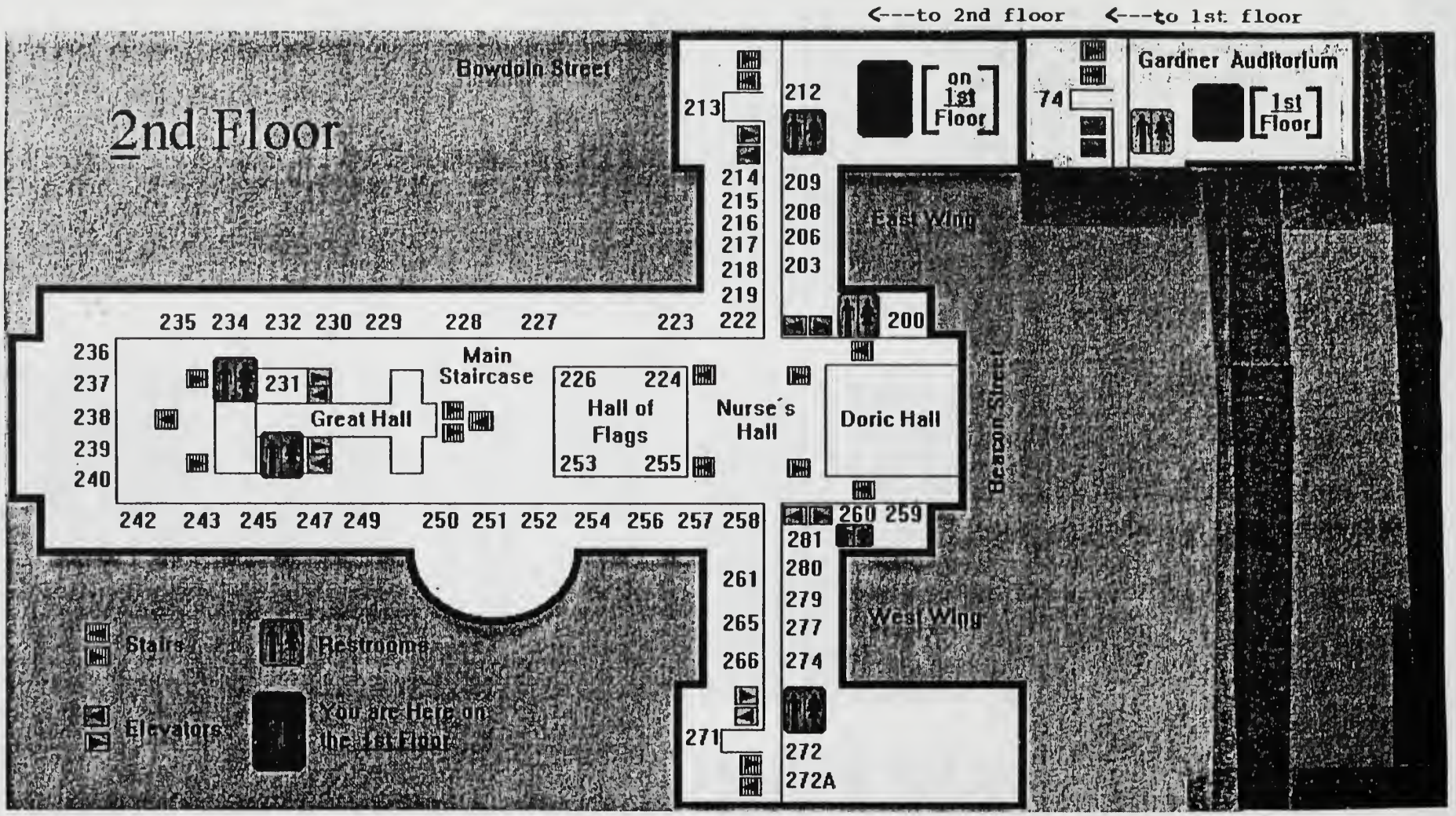
Frequently Requested Statistics

- During FY 1996, 2,190,480 crime victims received assistance and/ or compensation following a victimization. *(Office for Victims of Crime, 1997).*
- An estimated five out of six people will be victims of either completed or attempted violent crimes at least once in their lives. *(Koppel. 1987)*
- According to The National Women's Study, 683,000 forcible rapes occur every year, which equals 56,916 per month; 1,871 per day; 78 per hour; and 1.3 per minute. Compared to non- victims of crime, rape victims were: 5.3 times more likely. *(National Victim Center & Crime Victims Research and Treatment Center, 1992).*
- Findings from The National Women's Study reveal that rape victims compared to non-crime victims were: 5.3 times more likely to have used prescription drugs non-medically (14.7% vs. 2.8%); 3.4 times as likely to have used marijuana (52.2% vs. 15.5%); Six times more likely to have used cocaine (15.5% vs 2.6%); 10.1 times more likely to have used hard drugs other than cocaine (12.1% vs. 1.2%); and 6.4 times more likely to have used hard drugs or cocaine (19.2% vs. 3.0%). Additionally, rape victims were 4.1 times more likely than non-crime victims to have contemplated suicide and 13 times more likely to have actually made a suicide attempt. *(Ibid)*
- In the United States, there are over 3,400 animal protection shelters and only about 1,200 shelters for battered women. *(Buel. 1994)*
- One out of four women will be sexually assaulted on a college campus. *(Hirsch, 1990)*
- Although the actual number of federal victims is not tracked, the Federal Bureau of Investigation opened 236,510 cases for investigation in FY 1994. That same year, the U.S. Attorneys' offices issued indictments in 57,133 cases and identified 133,332 victims, a 41% increase from 1993. The number of child victims increased by 118%. *(Office for Victims of Crime, 1996)*
- Antonio Novello, the former Surgeon General, has estimated that domestic violence kills 58,000 people every five years, the same number lost in the Vietnam War. *(Gardner, 1992)*

State Legislative Summary*

- Twenty-nine states have state constitutional rights for crime victims. Mississippi, Montana, and Tennessee will place amendments before the voters in November, 1998, which if ratified, will bring the total number of states with victims' rights constitutional amendments to thirty-two. In addition, Oregon voters also approved a victims' rights amendment in 1996, which was recently ruled invalid. Work toward a revised amendment in that state has already begun.
- Every state allows victim impact statements at sentencing, and forty-five states and the District of Columbia permit victim input concerning parole.
- Twenty-one states give victims the right to be heard or to have their views presented at a hearing on the acceptance of a plea agreement.
- In forty-one states, victims are to be notified of canceled or rescheduled hearings.
- By the end of 1997, forty-nine states and the District of Columbia had adopted laws requiring HIV testing of certain sex offenders.
- Thirty-one states give crime victims the right to attend the trial and/or disposition hearing of a juvenile offender, at least in cases where the offense is equivalent to a felony. In some of these states a victim who will testify as a witness in the case may be excluded at the discretion of the court.
- All states require convicted sex offenders to register with state or local law enforcement. As of the middle of 1998, forty-nine states have enacted laws providing for community notification of the release of sex offenders or allow public access to sex offender registration information.
- Forty-three states may enforce restitution orders in the same manner as civil judgments. Juvenile offenders may be ordered to pay restitution in forty-eight states, and the child's parent or legal guardian may be held responsible for a portion of such restitution in half of the states. In addition, civil liability for personal injury, property damage, or both resulting from a child's intentional act may be imposed against the child's parent or guardian in at least forty states.
- Victims are provided notice of the escape of a convicted offender in forty-three states, although only nineteen of those states require notification of victims when the offender is recaptured.
- Courts in twenty-six states must consider evidence of domestic violence when determining child custody issues.
- Separate or secure waiting areas are to be provided when available to minimize contact between victims and the offender's family members or friends during court proceedings in thirty-seven states.

**Unless otherwise noted, these data reflect the status of legislation in states as of the end of their 1997 main legislative sessions.*



Note: Gardner Auditorium is on the Basement Level

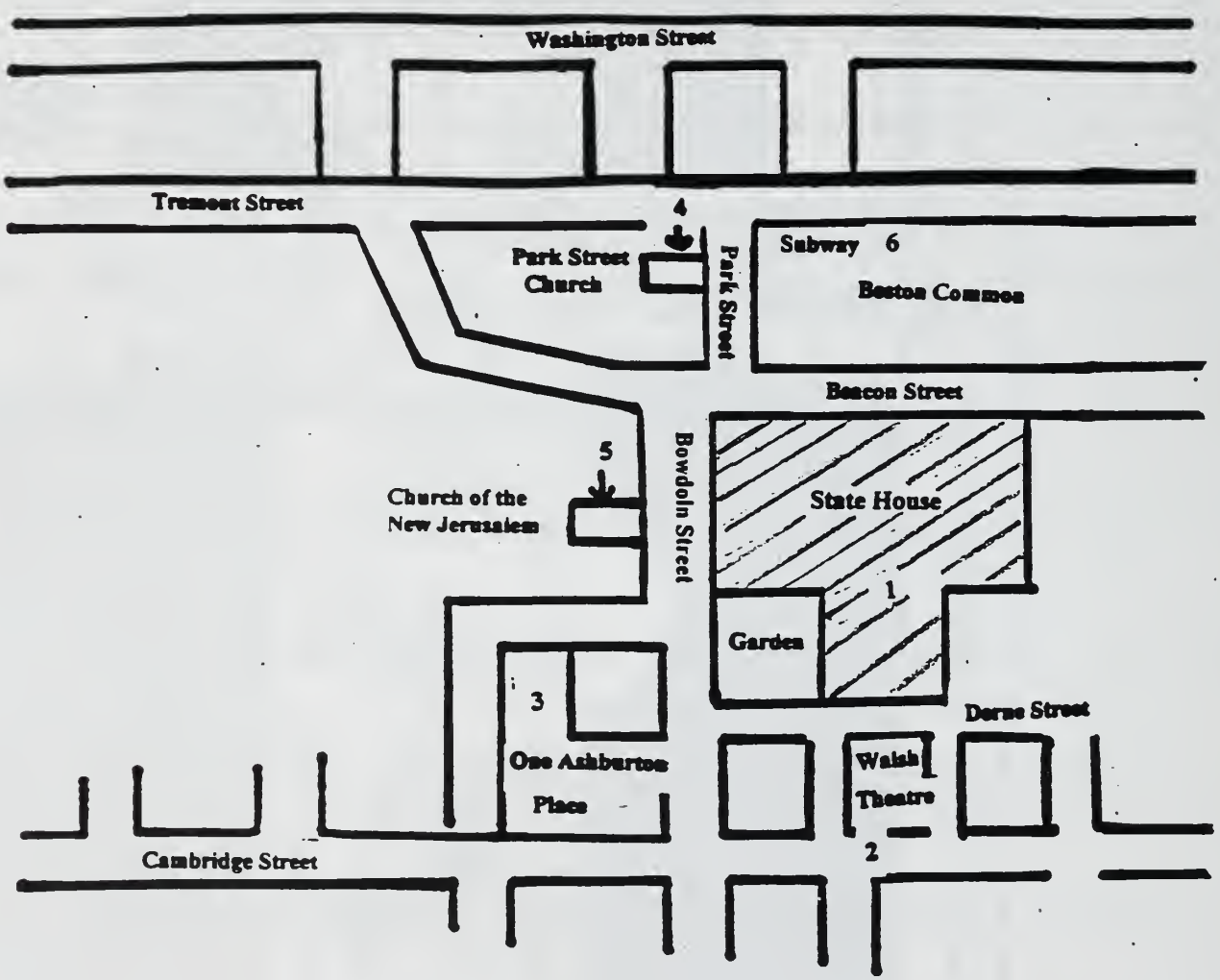
Conference Registration and Exhibits are on the 2nd Floor

SUGGESTIONS FOR LUNCH

1. THE RED HAT, Bowdoin Street - - Sandwiches, Burgers, and Salads
2. TANGIERS, Bowdoin Street - - Middle Eastern Food
3. FILL-A-BUSTER, Bowdoin Street - - Sandwiches and Salads
4. 21st AMENDMENT, Bowdoin Street - - Burgers, Salads, and Sandwiches
5. CURIOUS LIQUIDS CAFÉ, Beacon Street - - Sandwiches
6. THE BLACK GOOSE, Beacon Street - - Italian Food
7. S & M DELI, Beacon Street - - Deli foods
8. PUBLIK HOUSE, Beacon Street - - Burgers
9. THE PARKER HOUSE, Tremont Street - - Full Restaurant Upstairs, Pub Downstairs
10. SOUPER SALAD, Center Plaza (Cambridge St.) - - Soup, Chowder, Roll-ups
11. NEW YORK SOUP EXCHANGE, Center Plaza (Cambridge St.) - - Soup
12. KINSALE, Scollay Square (Cambridge St.) - - Irish Pub & Restaurant – Fish, Steak, Chicken
13. AU BON PAIN, Beacon Street - - Bakery, Sandwiches, Soups

Workshop Locations:

Workshop #1	*(Forgiveness)*	*Gardner Auditorium, State House*
Workshop #2	*(Activism)*	*Walsh Auditorium, 55 Temple St.*
Workshop #3	*(DNA*	*1 Ashburton Place, 21st Floor*
Workshop #4	*(Truth in Sentencing)*	*Park Street Church*
Workshop #5	*(Guardian ad Litem)*	*Church of New Jerusalem*
Workshop #6	*(Substance Abuse)*	*Paulist Center, 5 Park St.*



Note: Workshop locations are indicated by corresponding letters on the map. All workshop locations are accessible to persons with disabilities.